

FINANCE BUSINESS UNIT

COUNCIL

C:311

COUNCIL: 27/03/2019

**SUBJECT:** ANNUAL POLICY REVIEW

**PURPOSE:**

To present to Council the Draft Budget Related Policies to initiate the public consultation process.

**ATTACHMENTS**

Annexure 1	– Rates Policy
Annexure 2	– Credit Control & Debt Collection Policy
Annexure 3	– Indigent Policy
Annexure 4	– Tariff Policy
Annexure 5	– Cash Management & Investment Policy
Annexure 6	– Borrowing Policy
Annexure 7	– Virement Policy
Annexure 8	– Budget Policy
Annexure 9	– Funding & Reserves Policy
Annexure 10	– Asset Management Policy
Annexure 11	– Long Term Financial Planning Policy
Annexure 12	– Policy on Infrastructure, Investment & Capital Projects
Annexure 13	– Supply Chain Management Policy

**DISCUSSION AND BACKGROUND**

Legislation requires budget related policies to be reviewed at least annually. This is normally undertaken in or around the budget process so that it may inform the upcoming year.

The above policies are therefore considered for review. It must be stressed that a review does not necessarily mean that the policy needs to be amended but rather interrogated to ensure it remains relevant to the organisations and adherence to best practice.

Below is a further analysis of each policy and amendments indicated where necessary.



**Annexure 1 – Rates Policy**

Section 5 (1) of the Local Government Municipal Property Rates Act No 6 of 2004 requires that the rates policy be annually reviewed by Council, and if necessary, amend its policy.

There are no changes to the policy.

**Annexure 2 – Credit Control & Debt Collection Policy**

Section 95 of the Local Government: Municipal Systems Act 32 of 2000 obliges the Municipality to establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the Municipality.

Section 96 of the Local Government: Municipal Systems Act 32 of 2000 provides that a Municipality must collect all money that is due and payable to it for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies.

Section 97 of the Local Government: Municipal Systems Act 32 of 2000 provides that the credit control and debt collection policy must provide for credit control and debt collection procedures and mechanisms as well as provision for indigent debtors that is consistent with its rates and tariff policies and any national policies on indigents.

There are various changes which are highlighted behind the relevant policy.

**Annexure 3 – Indigent Policy**

In terms of Section 74 of the Local Government Municipal Systems Act 2000, a Municipal Council must adopt and implement a Tariff Policy. In terms of section 74(i) of the Act in adopting a Tariff Policy, the Council should at least take into consideration the extent of subsidization of tariffs for poor households. Arising from the above, Council needs to improve an Indigent Support Policy. This policy must provide procedures and guidelines for the subsidization of basic service and tariff charges to its indigent households.

There are various changes which are highlighted behind the relevant policy.

**Annexure 4 – Tariff Policy**

In terms of Section 62 (1) of the Municipal Finance Management Act (MFMA) 56 of 2003 the Accounting Officer of a Municipality is responsible for managing the financial administration of the municipality and, in terms of S62 (1) (f), must for this purpose take all reasonable steps to ensure – “that the municipality has and implements a tariff policy referred to in Section 74 of the Municipal Systems Act” (MSA). In giving effect to S74 (1) of the Municipal Systems Act No. 32 of 2000, the municipality adopts the following as the framework tariff policy within which the municipal council must adopt various policies.

There are no changes to the policy.



## **Annexure 5 – Cash Management & Investment Policy**

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In terms of Section 13 (2) of the MFMA, a municipality must adopt a policy dealing with cash management and investments. The Investment & Cash Management Policy ensures that all investments are made in an effective and efficient manner and generate the best return for the KDM. This policy ensures that all investments made take into account the preservation and safety of the principal and appropriate liquidity.

There are no significant proposed changes to the policy.

## **Annexure 6 – Borrowing Policy**

The Borrowings Policy establishes a framework for incurring debt. It must be noted, however, that KDM does not raise any short-term debt. The guidelines provided in this policy ensure that KDM adheres to all statutory requirements regarding long-term debt. This policy aims to obtain funds at the lowest possible interest rates, and with minimum risk.

There are no significant proposed changes to the policy.

## **Annexure 7 – Virement Policy**

The Virements Policy is in place to ensure good budgeting practice, effective financial management and improved budgetary controls. This policy established a framework for managers to administer their budgets successfully and remain within limitations.

There are no significant proposed changes to the policy apart from :

- Amendments related to mSCOA
- Defining limitations relating to virements to fund fruitless, wasteful and irregular expenditure.

## **Annexure 8 – Budget Policy**

The Budget Policy sets out the principles followed by KDM in drafting the MTREF. This policy covers the responsibilities of the Mayor; the MM; the CFO and other senior managers in preparing the MTREF. The operating and capital budget; budget funding; budget transfers; unavoidable expenditure and the budget preparation process are covered extensively.

There are no significant proposed changes to the policy apart from additional references to mSCOA.

## **Annexure 9 – Funding & Reserves Policy**

The Funding & Reserves Policy is aimed at ensuring that the KDM procures sufficient and cost-effective funding to achieve its capital expenditure objectives in an optimum manner. This policy must be adhered to in the procurement of funding, whilst considering the maturity profile of KwaDukuza's assets and liabilities.

This policy sets out the assumptions and methodology for estimating:

- Revenue;
- Revenue that will not be collected;



- Proceeds from the disposal of assets;

- Proceeds from borrowings; and

- Funds to be set aside in Reserves (excluding Reserves held in order to comply with GRAP

(standards)

There are no significant proposed changes to the policy apart from additional references to MSCOA.

#### **Annexure 10**

##### **– Asset Management Policy**

The Fixed Asset Management Policy governs the acquisition, utilisation, control, maintenance and disposal of assets of KDM. This policy ensures that assets are managed in an economical, effective and efficient manner throughout their life cycles, to achieve the maximum level of service.

There are various changes mainly of a technical nature which are highlighted in the relevant policy.

#### **Annexure 11**

##### **– Long Term Financial Planning Policy**

A policy has been developed on the Long term financial planning of the Municipality to achieve KwaDukuza's 2030 vision and indicates the key requirement's for long term viability of the municipality.

There are no significant proposed changes to the policy.

#### **Annexure 12**

##### **– Policy on Infrastructure, Investment and Capital Projects**

This policy deals with investments in Infrastructure and Capital Projects to address the backlogs in service delivery as well as to promote economic growth in KwaDukuza.

There are no significant proposed changes to the policy.

#### **Annexure 13**

##### **– Supply Chain Management Policy**

This policy deals with Supply Chain Management Processes of the municipality. This policy represents a keen focus area of Council and various consultative processes are still underway to ensure the final policy is reflective of the goals and focus areas of Council.

### **STRATEGIC & LEGAL IMPLICATIONS:**

Assist in the compilation of a legislatively compliant 2019/20 Draft MTRBF.

### **CONSULTATIONS:**

Budget Steering Committee



**COUNCIL RECOMMENDS:**

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- Council notes the above policies for public comment as part of the Draft 2019/20 Budget for Community Consultation.
- The effective date of all revised policies will be the 1<sup>st</sup> July 2019

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2019/2020

# DRAFT RATES POLICY



KWADUKUZA MUNICIPALITY



## 1. DEFINITIONS

**"Act"** means the Local Government: Municipal Property Rates Act (No. 6 of 2004) and the regulations as promulgated in terms of the said Act.

**"Agent"** In relation to the owner of a property, means a person appointed by the owner of the property.

- a) to receive rental or other payments in respect of the property on behalf of the owner; or
- b) to make payments in respect of the property on behalf of the owner;

**"Agricultural property"** means property that is used primarily for agricultural purposes but excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting of game;

**"Amendment Act"** means the Local Government: Municipal Property Rates Amendment Act No. 29 of 2014

**"Annually"** Means once every financial year.

**"Appeal board"** Means a valuation appeal board established in terms of Section 56 of the Act.

**"Apartments and Villas"** Means a dwelling house, cabana, cottage, chalet, bungalow, flat studio, apartment, villa, where the owner/agent does not reside and facilities and equipment are provided for guests to cater for themselves as temporary holiday accommodation. The facilities should be adequate to cater for the maximum advertised number of residents the facility can accommodate. The booking is usually done through an agent and check in procedures would not normally be completed on site

**"Assistant municipal valuer"** means a person designated as an assistant municipal valuer in terms of section 35(1) or (2) of the Act



**"Backpacker/Hostelling Establishment"** Means an accommodation facility that offers a range of alternative sleeping arrangements i.e. dormitories, en-suite bedrooms, bungalows, etc as well as communal facilities. Selected meals may be provided, however, adequate facilities must also be provided to cater for the advertised number of guests. Only establishments that cater for transient guests qualify. Check-in procedures are usually completed on site, and the owner/manager may reside on the site.

**"Bed & Breakfast"** Means an establishment, which is primarily a dwelling and makes excess rooms available to transient guests. The bathrooms may or may not be en suite. This establishment may be managed by the owner and/or designated person. Breakfast may be available for all guests. Public areas are usually shared by guests and owners/hosts alike.

**"Category"** means (a) in relation to property, a category of properties determined in terms of Section 8 of the Act and (b) in relation to owners of properties, means a category of owners determined in terms of Section 15(2) of the Act.

**"Child headed household"** A household headed by a person under the age of 21 years subject to meeting the indigent criteria as stipulated in Council's Indigent Policy.

**"Data-collector"** A person designated as a data-collector in terms of section 36 of the Act

**"Date of valuation"** The date determined by a municipality in terms of Section 31(1) of the Act.

**"Day"** means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday



**“District Municipality”** A municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in Section 155 (1) of the Constitution as a category C Municipality.

**“Effective date”**

- a) In relation to a valuation roll, means the date on which the valuation roll takes effect in terms of Section 32(1) of the Act, or
- b) In relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of Section 78(2)(b) of the Act.

**“Exclusion”** In relation to a municipality's rating power, means a restriction of that power as provided for in Section 17 of the Act.

**“Exemption”** In relation to the payment of a rate, means an exemption granted by a municipality in terms of Section 15 of the Act.

**“Financial year”** Means the period starting from 1 July in a year to 30 June the next year.

**“Guesthouse (maximum 12 rooms in S.R. zone)”** Means an establishment that is purposely built/ altered for the sole use of providing transient guests with accommodation. This establishment shall be occupied by and may be managed by the owner or manager/host/hostess. The public areas are for the exclusive use of the guests. This facility will offer breakfast and depending on location, dinner and other facilities may be offered.

**“Income Tax Act”** The Income Tax Act, 1962 (Act No. 58 of 1962)

**“Indigent”** means an owner or person who is in permanent occupation of the property and qualifies for indigent relief in terms of the Municipality's indigent policy;

**“Land reform beneficiary”** In relation to a property, means a person who:-



- a) acquired the property through-
  - i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or
  - ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1944);
  - b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or
- holds or acquires the property in terms of such other land tenure reform legislation as may pursuant to Section 25(6) and (7) of the Constitution be enacted after this Act has taken effect.

**"Land Tenure right"** means a land tenure right as defined in section 1 of Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991)

**"Local community"** in relation to a municipality-

- a) means that body of persons comprising-
- i) the residents of the Municipality;
- ii) the ratepayers of the Municipality;
- iii) any civic organisation and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and
- iv) visitors and other people residing outside the Municipality who, because of their presence in the Municipality, make use of services or facilities provided by the Municipality; and
- b) includes, more specifically, the poor and other disadvantaged sections of such body of persons.

**"Local Municipality"** A municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in Section 155(1) of the Constitution as a category B municipality.



**"Market Value"** In relation to a property, means the value of the property determined in accordance with Section 46 of the Act.

**"MEC for local government"** The member of the Executive Council of a province who is responsible for local government in that province.

**"Minister"** The cabinet member responsible for local government

**"Multiple purposes"** In relation to a property, means the use of a property for more than one purpose subject to Section 9 of the Act

**"Municipal Council or Council"** means the council of the KwaDukuza Municipality as constituted to in section 18 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) **"Municipal Finance Management Act"** The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**The Municipality"** means the KwaDukuza Municipality (a) established in terms of section 155(6) of the Constitution, 1996, and established by and under section 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), read with sections 3, 4 and 5 of the KwaZulu-Natal Determination of Types of Municipality Act, 2000 (Act No. 7 of 2000) and b) as a geographical area, means a municipal area demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998)

**"Municipal Manager"** A person appointed in terms of Section 82 of the Municipal Structures Act;

**"Municipal Structures Act"** The Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

**"Municipal Systems Act"** The Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000).

**"Municipal Valuer or Valuer of a Municipality"** A person designated as a municipal valuer in terms of Section 33(1) of the Act.



**"Newly rateable property"** Any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding

- a) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and

- b) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified.

**"Occupier"** in relation to a property, means a person in actual occupation of a property, whether or not that person has a right to occupy the property;

**"Office bearer"**, in relation to places of public worship, means the primary person who officiates at services at that place of worship

**"Official residence"**, in relation to places of public worship, means –

- (a) a portion of the property used for residential purposes; or
- (b) one residential property, if the residential property is not located on the same property as the place of public worship,

registered in the name of the religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer.

**"Organ of State"** An organ of state as defined in Section 239 of the Constitution.

**"Owner"**

- a) in relation to a property referred to in paragraph of the definition of property, means a person in whose name ownership of the property is registered;

- b) in relation to a right referred to in paragraph (b) of the definition of property, means a person in whose name the right is registered;



- c) In relation to a land tenure right referred to in paragraph (c ) of the definition of property , means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- d) Definition of property, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of "publicly controlled",

Provided that a person mentioned below may for the purposes of this Act be regarded by a municipality as the owner of a property in the following cases:

- i) A trustee, in the case of a property in a trust excluding state trust land;
- ii) An executor or administrator, in the case of a property in a deceased estate;
- iii) A trustee or liquidator, in the case of a property in the estate of a person under judicial management;
- iv) A curator, in the case of a property in the estate of a person under curatorship;
- v) A person in whose name a usufruct or other personal servitude is registered, in the case of a property that is registered in the name of the Municipality and is leased by it; or
- vi) A buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

**"Pensioner"** A senior citizen, who receives regular payment from the state or former employer after retirement, or the surviving spouse who receives a regular payment from the former employer of the late spouse, or a natural person who is over the age of 60. In addition medically boarded pensioners and persons in receipt of a State grant are regarded as pensioners.



**"Parent property"** A parent property is described as such in a service level agreement, and that has been approved for township development in terms of the Development Facilitation Act 67 of 1995, the Natal Ordinance No 27 of 1949, or the KwaZulu-Natal Planning and Development Act 6 of 2008.

**"Permitted use"** In relation to a property, means the limited purposes for which the property may be used in terms of

a) any restrictions imposed by-

i) a condition of title;

ii) a provision of a town planning or land use scheme; or

iii) any legislation applicable to any specific property or properties; or

b) any alleviation of any such restrictions;

**"Person"** Includes an organ of state.

**"Primary Developer"** A primary developer of a parent property is the legal entity, or successor in title in the event of a sale of a property's development rights, that entered into a service level agreement with the Municipality. The description of the parent property must be stated in the service level agreement.

**"Primary Property"** Means the property on which the owner resides

**"Property"**

a) immovable property registered in the name of a person, including, in the case of a sectional title unit registered in the name of a person/legal entity;

b) a right registered against immovable property in the name of a person/legal entity, excluding a mortgage bond registered against the property;

c) a land tenure right registered in the name of a person/legal entity or granted to a person/legal entity in terms of legislation; or



- d) public service infrastructure;

**"Property Register"** A register of properties referred to in Section 23 of the Act.

**"Property Development"** A major development primarily for residential properties, but also including such other categories as may be authorised, arising from a DFA or Land PTB approval or directly in terms of the Municipality's Town Planning Scheme, and in which all the internal infrastructure and community facilities are provided by the Primary Developer.

**"Protected area"** An area that is or has to be listed in the register referred to in Section 10 of the Protected Areas Act.

**"Protected Areas Act"** The National Environmental Management: Protected Areas Act, 2003

**"Publicly controlled"** Owned by or otherwise under the control of an organ of state, including

- a) a public entity listed in the Public Finance Management Act, 1999 (Act No.1 of 1999);
- b) A municipality; or
- c) A municipal entity as defined in the Municipal Systems Act

**"Public Benefit Organisation"** Means an organisation as described in Section 30 of the Income Tax Act

**"Public Service Infrastructure"** Publicly controlled Infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer



(c) power stations, power substations or power lines forming part of an electricity scheme serving the public;

(d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;

(e) railway lines forming part of a national railway system;

(f) communication towers, masts, exchanges or lines forming part of a communication system serving the public;

(g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding these, which must be vacant for air

navigation purposes;

(h) breakwaters, sea walls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;

of 1999);

(i) any other publicly controlled infrastructure as may be prescribed; or

(j) rights of way, easements or servitudes in connection with infrastructure mentioned

in paragraphs (a) to (i)

"Rate" A municipal rate on property envisaged in section 229 (1) (a) of the Constitution;

"Rateable property" Property on which a municipality may in terms of Section 2 levy a rate, excluding property fully excluded from the levying of rates in terms of Section 17 of the Act.



**"Register"**

a) means to record in a register in terms of –

- i. the Deeds Registries Act, 1937 (Act No. 47 of 1937); or
- ii. the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and

b) Includes any other formal act in terms of any other legislation to record-

- iii. a right to use land for or in connection with mining purposes; or
- iv. a land tenure right;

**"Residential property"** A property included in a valuation roll in terms of Section 48 (2) (b) of the Act as residential.

**"Sectional Titles Act"** The Sectional Titles Act, 1986 (Act No. 95 of 1986)

**"Sectional title unit"** A unit defined in Section 1 of the Sectional Titles Act

**"Special Rating Area"** Special Rating area subject to section 22 of the Act, means geographic area approved by Council, within which property owners agree to pay for certain services supplementary to those supplied by the Municipality. These services are financed by levying an additional rate which is added to the rates bill of the property owners within the precinct.

**"Specified public benefit activity"** An activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.

**"SPLUMA"** Spatial Planning and Land Use Management No 16 of 2013

**"State Trust Land"** Land owned by the state-

- a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- b) over which land tenure rights were registered or granted; or



c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994)

"Vacant property" means –

- a) property on which no immovable improvements have been erected; or
- b) in the case of property on which immovable improvements are being constructed, where such property cannot be permanently occupied

## 2.

### INTRODUCTION

The Municipality has the power to levy a rate on property in its area of jurisdiction. Section 3 (1) of The Local Government Municipal Property Rates Act No. 6 of 2004 (herein referred to as the MPRRA) and Section 62 (1) (f) of the Local Government Finance Management Act 56 of 2003 (herein referred to as the MFMA) requires the Municipality to develop and adopt a rate policy consistent with the said Act on levying of rates on ratable property.

Section 3 of the Act provides that the Rates Policy takes effect on the effective date of the valuation roll prepared by the Municipality in terms of this Act.

This document sets out the Policy of the Municipality and must be read with the MPRRA. In applying this Policy, the Municipality will meet the requirements of the MPRRA and the MFMA, including any regulations made under these Acts.

## 2.1

### Annual review of the Rates Policy

The Municipal Council shall review this Policy annually and if necessary, amend it. The amended Policy must accompany the Municipality's annual budget when it is tabled before Council in terms of the Municipal Finance Management Act and the Municipality must follow the community participation process envisaged in the Municipal Systems Act.

## 2.2

### Liability for Rates



Rates levied on a property must be paid by the owner of the property. Owners are jointly and severally liable for payment of rates on the property. Service of accounts or documents or process on any one owner is deemed to be service on all owners.

### **2.3 Amount due for Rates**

The Municipality will by resolution as part of each annual operating budget process, determine a rate in the rand for every category of property.

## **3. THE PURPOSE OF THIS POLICY**

The purpose of this policy is to:

- 3.1 comply with the provisions Section 3 of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
- 3.2 determine the methodology and to prescribe procedures for the implementation of the Act;
- 3.3 determine criteria to be applied for the levying of differential rates for different categories of properties;
- 3.4 determine or provide criteria for the determination of categories of properties and categories of owners of properties for categories of properties;
- 3.5 determine criteria to be applied for granting exemptions, rebates and reductions;
- 3.6 determine how the Municipality's powers must be exercised in relation to multipurpose properties;
- 3.7 determine measures to promote local economic and social development; and
- 3.8 identify which categories or properties the Municipality has elected not to rate as provided for in Section 7 of the Act.



#### 4. DIFFERENT CATEGORIES OF PROPERTY

4.1 Section 8 of the Act provides for different categories of property that may be adopted by Municipalities for the purpose of levying different rates and/or exemptions and rebates. The categories of property are determined according to the actual use of the property and the property shall be rated on such actual use. A change in the use may result in a change in the category of the property. The Municipality has adopted the following categories:

- a) Residential properties.
- b) Industrial.
- c) Business and commercial properties including privately run institutions.
- d) Agricultural properties:
- e) Properties owned by an organ of state and used for public service purposes
- f) Public service infrastructure properties
- g) Properties owned by public benefit organisations and used for specified public benefit activities
- h) Vacant land.
- i) Multiple use properties.

#### 5. CRITERIA FOR DIFFERENTIAL RATING FOR DIFFERENT CATEGORIES OF PROPERTIES

5.1 The criteria for weighting the categories listed in Section 4 of this Policy for the purpose of determining rate ranges for each category are as follows:



- a) The general economic and financial strength or weakness of owners of a category compared to other categories.
- b) Vacant land will be rated higher (in terms of a Cent in the Rand) as the Municipality is encouraging owners to develop it and also to discourage speculation by owners.
- c) Differential rating among the various property categories will be done by way of setting different rate randage for each property category rather than by way of reductions and rebates. This is much simpler for citizens to understand and thus promotes the principle of transparency.

#### **6. CRITERIA FOR RATING MULTIPLE USE PROPERTY**

The following criteria shall be applied by the Municipality:

- 6.1 By apportioning the market value of a property to the different purposes for which the property is used for.
- 6.2 Applying the relevant rate randage to the corresponding apportioned market value.
- 6.3 If the market value cannot be apportioned to its various uses, then such property will be valued according to the dominant (main or primary) use.

#### **7. CRITERIA FOR EXEMPTION, REBATES AND REDUCTIONS**

- 7.1 The criteria used for the purpose of rates exemption, rebates and reductions are as follows:
  - a) Indigent status of the owner of a property.
  - b) Sources of income of the owner of a property.



- c) Social or economic conditions of the area where the owners of property is located for example an area declared by the National or Provincial Government to be a disaster area within the meaning of Disaster Management Act, 2002 to the extent that the significantly negatively affected.
- d) Market value of residential property below a determined threshold.

## 8. GRANTING OF EXEMPTIONS, REBATES AND REDUCTIONS

The criteria developed for the granting of exemptions, rebates and reductions for the different categories will be considered after an application accompanied by the relevant documents (SARS status, pension or social grant proofs) including affidavit has been lodged with the Municipality. The necessary rebates shall be determined by Council. Prescribed application forms may be obtained from the Finance Offices.

### 8.1 Properties qualifying for Exemption

#### 8.1.1 Protected areas and environmentally sensitive areas

- a) In terms of Section 17 (1)(e) of the MPRA, the Municipality may not levy a rate on those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management Biodiversity Act, 2004, which are not developed or used for commercial, business, agricultural or residential purposes. In addition, Section 17(2)(a) states that the exclusion from rates of a property referred to in Section 17(1)(e) lapses the declaration of that property as a special nature reserve, national park, nature reserve or national botanical garden, or as part of such a reserve, park or botanical garden is withdrawn in terms of the applicable Act mentioned in that Section 17(1)(e).



- b) In addition to these areas, the Municipality will exempt from rates any environmentally sensitive area that is recognised as such by the Council. When such an area is located on part of a property that has other land use types, then rates will only be portioned to the other types if applicable. Applications in this regard must be made to the Council for recognition and approval of the environmentally sensitive areas.

#### 8.1.2. Land reform beneficiaries

- a) Section 17(1)(g) of the Act states that a property belonging to a land reform beneficiary or his or her heirs, shall be excluded from rates, provided that this exclusion lapses ten years from the date on which such beneficiary's title was registered in the office of the Registrar of Deeds. In terms of Section 21(1)(b) of the Act the rates on these properties must be phased in over a period of 3 years

#### 8.1.3. Properties used for residential purposes

In addition to the statutory reduction of R15 000, a further reduction of R85 000 is approved for property values exceeding R130 000. Persons owning property with a rateable value of R130 000 and below will be not be liable for the payment of rates.

#### 8.1.4. Places of Worship

- a) The Municipality may not levy a rate on properties registered in the name of and used primarily, or zoned as, as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.

### 8.2. Properties qualifying for rebates and discounts

#### 8.2.1. Newly Rateable Properties



- a) Any rateable property on which property rates were not levied before the end of the financial year preceding the date on which this Act took effect, excluding

- i) a property which was incorrectly omitted from a valuation roll and for that reason was not rated before that date; and

- ii) a property identified by the Minister by notice in the Gazette where the phasing-in of a rate is not justified.

- b) The rates for all newly rateable properties will be phased in over a period of 3 years according to the following percentages:-

i) 75% discount for the first year

ii) 50% discount for the second year

iii) 25% discount for the third year

Thereafter, the rebates as approved by council will apply.

## 8.2.2. Public Service Infrastructure

- a) The Municipality recognises that public service infrastructure e.g. infrastructure owned by Telkom, Eskom, South African National Roads Agency Limited (SANRAL) play a significant role in the growth and sustainability of the economy of Municipality.

- b) Rates are not levied on the first 30% of the market value of public service infrastructure

- a) In addition, certain properties are exempt from the payment of rates and the calculation of rates are being phased out as stipulated in the Amendment Act

- 8.2.3. Properties owned by an organ of state and used for public service purposes.



The following public service properties will be entitled to a separate rate tariff determined by Council from time to time:

- i) Hospitals and clinics
- ii) Schools, pre-schools, early childhood development centres or further education and training colleges
- iii) National and provincial libraries and archives
- iv) Police stations.
- v) Correctional facilities
- vi) Courts of law

but excludes property contemplated in the definition of "public service infrastructure"

#### 8.2.4. Agricultural properties

- a) Properties that are rated as agricultural shall be entitled to a rebate as determined by Council from time to time.

#### 8.2.5. Residential properties that are part of a township

- a) Rates on a property will become payable from the date on which the subdivision or consolidation of the property was registered in the Deeds Office. A parent property may be rated, in terms of the Municipal Property Rates Act, from the date its first subdivision is registered in the Deeds Office if the parent property is not already registered in the Deeds Office.

#### 8.2.6. Residential properties that are part of a gated community

- a) In gated communities where property owners are all members of an association and that association is, by agreement of its members and the Municipality, responsible for the maintenance and replacement of



all or part its services to the community, a rebate will be allowed by Council. This rebate will be determined according to the percentage of services provided by Council in accordance with the standards and costs of services supplied by Council in the particular financial year.

#### 8.2.7. Commercial and Industrial Properties

The following rebates shall be granted to commercial and industrial properties, subject to criteria/conditions set out below:

100% REBATE	YEAR 1
90% REBATE	YEAR 2
80% REBATE	YEAR 3
70% REBATE	YEAR 4
60% REBATE	YEAR 5
No incentive	From YEAR 6

a) A Council Resolution approving such incentives must be adopted prior to establishment. The application for developer's/investor incentives shall be submitted as a separate application concurrently with the development planning application. The submission to Council when seeking approval shall stipulate the terms and conditions applicable in respect of this incentive scheme. Factors to be considered, but not limited to, are benefits that would accrue to the community and local economic development. The following are a few of the factors that will be considered when assessing the application for incentives:



- (i) Investment to the Priority Economic Sector as per KwaZulu-Natal Provincial Growth and Development Strategy and New Growth Path,
- (ii) Agreeing to sign the Service Level Agreement and to pay for all infrastructure related costs within the agreed period not exceeding the rebates years,
- (iii) The municipal accounts are in order or up to date,
- (iv) Job Creation – during the construction and operational phase.
- (v) Skills Development – during construction and operational phase.
- (vi) Use of local suppliers and SMMEs during the construction and operational phase,
- (vii) Enterprise Development programme,
- (viii) Adherence to the BBBEE Act and relevant guidelines,
- (ix) Corporate Social Investment plan to the local communities or communities identified by the municipality,

The above factors shall form part of the detailed motivation or proposal/application to Council for the developer's/investor incentives, which will be assessed on its own merits and approved by Council.

- b) A parent property shall be rated from date of approval in terms of the Development Facilitation Act 67 of 1995, the Natal Ordinance No 27 of 1949, the KwaZulu-Natal Planning and Development Act 6 of 2008 or SPLUMA. A subdivision registered off a parent property will be granted the rebate applicable from Year 1 from the date of registration of the subdivision in the Deeds Office.
- c) The incentive granted in Year 1 shall be calculated from date of approval or effective date to the end of that financial year.
- d) The rebate shall not be granted, or if granted be reversed, should the respective conditions of establishment not be met, or any section of the



relevant Town Planning Scheme, Planning legislation, or National Building Regulations, be contravened.

#### 8.2.8. Developers Incentives (Residential)

a) Developers incentives (residential) will no longer be granted from the 2016/17 financial year unless stipulated in an existing service level agreement, in which case the following shall apply: Primary Developers who have signed a Service Level Agreement with Council will be entitled to the rebates listed below. The incentives will be reviewed annually.

100% REBATE	YEAR 1
100% REBATE	YEAR 2
90% REBATE	YEAR 3
80% REBATE	YEAR 4
70% REBATE	YEAR 5
60% REBATE	YEAR 6
50% REBATE	YEAR 7
No incentive	From YEAR 8

b) A parent property shall be rated from date of approval in terms of the Development Facilitation Act 67 of 1995, the Natal Ordinance No 27 of 1949, or the KwaZulu-Natal Planning and Development Act 6 of 2008.

c) The incentive granted in Year 1 shall be calculated from date of approval to the end of that financial year.



- d) The rebate shall not be granted, or if granted be reversed, should the respective conditions of establishment not be met, or any section of the relevant Town Planning Scheme, Planning legislation, or National Building Regulations, be contravened.

### 8.3 Owners Qualifying For Exemptions

#### 8.3.1 Indigent persons

- a) Any indigent person who owns residential improved property below a valuation determined by Council will be exempted from paying rates.
- b) Any indigent person who owns vacant residential property below a valuation determined by Council will be exempted from paying rates.

#### 8.3.2 Public Benefit Organisations

Any organisation that is registered as a Public Benefit Organisation, in terms of Section 30 of the Income Tax Act, will be granted a rebate as determined by Council on condition that the property is used for an activity listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.

### 8.4 Owners Qualifying For Rebates

#### 8.4.1 Pensioners / Senior citizen

Senior citizens may be granted a rebate on the primary property as determined by a resolution of Council at its annual budget meeting subject to the following:

- a) The applicant must meet the following criteria:
  - i) He/She must produce a bar coded identity document,
  - ii) He/She must be the owner of the primary property. This includes co-owners who are married to each other or property owned solely by either spouse,



iii) He/She must permanently reside on the primary property, provided that the primary property is not used as a bed and breakfast or guest house establishment,

iv) In the case of a usufruct, the usufruct must be registered over the whole property and the title deed must be produced.

v) In the case of multiple ownership, all owners must meet the qualifying criteria listed above.

vi) In the case of a trust, a copy of the deed of trust indicating the owners of the trust and copies of their identity documents must be submitted with the application form

vii) The property must be registered in the name of a natural person and not a company or close corporation.

viii) The value of the rebate will be at the discretion of Council.

b) Applicants for such rebates must submit sworn affidavits concerning their income status to the Municipality.

c) The pensioners rebate will lapse:

i) On death of the applicant,

ii) On transfer of the respective property,

iii) When the applicant ceases to reside permanently on the property,

d) Applications shall be implemented with effect from the next practical billing cycle following the date of application.

e) Further, Council may determine different rebates for pensioners/senior citizens within certain age categories, eg. pensioners/senior citizens above 60 years, between 65 and 75 years, and those over 75 years.

8.4.2 Recipients of disability grants and persons who have been medically boarded



- a) Disability grantees or medically boarded persons may on annual application be granted a rebate as determined by a resolution of Council at its annual budget or with effect from the next practical billing cycle following the date of application subject to the following:
- i) Disabilities grantees, the applicant must be in possession of a letter issued by the Department of Social Welfare, confirming receipt of a disability grant.
  - ii) Medically boarded persons : the applicant must produce a letter from the applicant's employer or the underwriter for the employer confirming medical boarding,
  - iii) The applicant must produce a bar coded identity document,
  - iv) The applicant must be the owner of the primary property provided that the primary property is not used as a bed and breakfast or guest house establishment. This includes co-owners who are married to each other or property owned solely by either spouse,
  - v) The applicant must permanently reside on the primary property,
  - vi) In the case of a usufruct, the usufruct must be registered over the whole property and the title deed must be produced.
  - vii) In the case of multiple ownership, all owners must meet the qualifying criteria listed above.
  - viii) The grant/medically boarded pension must be the only source of income.
  - ix) In the case of a trust, a copy of the deed of trust indicating the owners of the trust and copies of their identity documents must be submitted with the application form
  - x) The property must be registered in the name of a natural person and not a company or close corporation.



- xi) The value of the rebate will be at the discretion of Council.
- b) The rebate will lapse :
  - i) On death of the applicant,
  - ii) On transfer of the respective property,
  - iii) When the applicant ceases to reside permanently on the property,
  - iv) If a medically boarded person gains employment.
- c) Applications shall be implemented with effect from the next practical billing cycle following the date of application.

#### 8.4.3 Child Headed Households

- a) Property shall be classified as child headed household if the children in the household are below the age of 21 years have been investigated by a social worker from the Department of Social Development and declared as such.
- b) Such child headed household may receive a rebate as determined by a resolution of Council at its annual budget and subject to the following:

- i) The terminally ill parent, the child or the deceased estate of the parent as aforesaid must be the owner of the property.
- c) Application must be accompanied by:

- i) Confirmation from the Department of Social Development that the above criteria have been met and the property is one that is a child headed household; If the parent is deceased,
- ii) A copy of the letter of executorship or administration of the deceased estate,
- iii) A copy of the liquidation and distribution account showing the transfer

of the property to the minors,



- iv) The death certificate of the parent,
- v) If the parent is terminally ill, a copy of the District Surgeons Report confirming his/her status and
- vi) Birth certificate/s of minors residing on the property.
- d) The minors must reside permanently on the property,
- e) The value of the applicant's property must not exceed a value as determined by a resolution of Council as its annual budget.
- f) Applications must be renewed annually by the Department of Social Welfare.
- g) The rebate will lapse:
  - i) When the minor reaches the age of majority,
  - ii) On alienation of the property,
  - iii) When the minors ceases to reside permanently on the property,
  - iv) If the Department of Social Development no longer regards the household as being Child Headed,

#### 8.5 Natural Disasters

Properties that have been damaged by a natural disaster, as defined in terms of the Disaster Management Act 57 of 2002, may be re-valued on application as at the date of such natural disaster in accordance with the Act.

#### 8.6 Bed & Breakfast Accommodation

Bed & Breakfast establishments will receive either a rebate, or be rated at a concessionary tariff, as determined by Council at its annual budget. Confirmation of type of hospitality establishment shall be provided by Council's Town Planning Department. The following are the qualifying criteria:



a) The owner of the property must permanently reside on the property. In the case of a company, close corporation or trust being the registered owner, at least one member / director thereof must reside permanently on the property, subject to any members of such companies, close corporations and trusts not being a member of another company, close corporation or trust that owns a bed and breakfast establishment.

b) The bed & breakfast must be registered with a properly constituted organisation as may be approved by the Municipality from time to time.

c) The bed & breakfast must only offer accommodation facilities and dining facilities to registered guests. Establishments that offer conference facilities, spa, hair salons etc will not qualify.

d) The owner must provide details of the establishment in respect of total size of the developed property, total number of rooms and facilities available to guests. This will be required to be certified by a member of the Association.

#### 8.6.1 Rebate/Rate tariff

- a) Bed & Breakfast establishment with less than or equal to 3 bedrooms shall be rated as residential
- b) Bed & Breakfast establishment with more than 3 bedrooms but less than or equal to 9 bedrooms may be rated as residential for commercial purposes and may receive a rebate, or a concessionary rate tariff may be applied, as resolved by Council in the annual budget.

#### 8.7 Guest Houses

Owners of guest houses will receive either a rebate, or be rated at a concessionary tariff, as determined by Council at its annual budget. Confirmation of type of hospitality establishment shall be provided by Council's Town Planning Department. The following are the qualifying criteria:



- a) The guest house must be registered with a properly constituted organisation as may be approved by the Municipality from time to time.
- b) The guest house must only offer accommodation facilities and dining facilities to registered guests. Establishments that offer conference facilities, spa, hair salons etc will not qualify.
- c) The owner must provide details of the establishment in respect of total size of the developed property, total number of rooms and facilities available to guests. This will be required to be certified by a member of the Association.

#### 8.7.1 Rebate/Rate tariff

- a) Establishments with 1 to 6 bedrooms will be rated as residential used for commercial purposes and may receive a rebate, or a concessionary rate tariff may be applied, as resolved by Council in the annual budget. Those with 7 or more bedrooms will be rated as commercial properties and may receive a rebate, or a concessionary rate tariff may be applied, as resolved by Council in the annual budget.

#### 8.8 Special Rating Areas

The Municipality may by resolution of Council determine an area within the Municipality as a special rating area and all parties must comply with the processes as set out in the Section 22 of the Act.

8.8.1 Details of the policy governing Special Rating Areas appear hereunder. On application, the Municipality may, by resolution of Council, establish a Special Rating Area (hereinafter called SRA),

8.8.2 Any rebate granted by Council shall not apply to the additional rate payable by the owner in a SRA,

8.8.3 An application for the establishment of an SRA must:

- a) Be in writing, in the prescribed form :



- b) Be submitted by no later than 30 September preceding the start of the new municipal financial year for which the application is made,

- c) Describe and define the boundaries of the proposed SRA,

- d) Consist of not less than 51 % of commercial properties and 66% of residential properties under the defined SRA boundaries or the total value of the properties must exceed a value as determined by Council from time to time,

- e) Be accompanied by the applicant's budget, business and implementation plan on the management of the SRA,

f) DEMONSTRATE THAT:

- i) at least 66% of owners in number and 51% of commercial property value and 66% of residential property value have voted in favour of establishment of the SRA,

OR

- iii) (ii) at least 51% of owners in number relating to properties categorized as business & commercial and 66% of owners in number relating to properties categorized as residential, provided that the residential owners are zero rated in respect of the additional rate,

- g) The Municipality may, at its discretion, review and change the establishment procedures from time to time,

- 8.8.4 The SRA must enter into an Agreement with the Municipality in terms of Section 67 of the MFMA. Funds will not be to the SRA Company unless a Section 67 Agreement is signed and received by the Municipality,

- 8.8.5 Once the SRA is established, the aforesaid Section 67 Agreement must be renewed annually by no later than 31 December together with the budget of the SRA,



- 8.8.6 Once the SRA has been established and the additional rate approved, the Municipality will levy additional rate and will pay to the SRA (in the form of a grant) the revenue generated, as they are collected,
- 8.8.7 New developments within the jurisdiction of the SRA, will be rated in accordance with the effective date of the Supplementary Valuation Roll,
- 8.8.8 The boundaries for existing SRA's may be amended, provided that:
- a) 51% of additional owners in number relating to properties categorized as business & commercial and 66% of owners in number relating to properties categorized as residential demonstrate their support, or
  - b) 66% of additional owners in number demonstrate their support,
  - c) A three quarter majority vote is obtained from the existing owners in favour of the amendment of the boundary, at the AGM or a Special General Meeting of the section 21 company, after at least 30 days' notice of the amendment proposals have been delivered to every property owner within the existing SRA,
  - d) The new boundary may not exceed 100% of the existing boundary in size or number of properties,
  - e) Council may limit the increase of the new boundary or the number of new properties to be incorporated.
- 8.8.9 An SRA shall be dissolved:
- a) If the Section 67 Agreement has not been renewed or honoured,
  - b) By resolution of Council upon written application signed by the majority of owners within the SRA who are liable for the payment of the special rate,
- 8.8.10 Upon the winding up of the management body, the assets remaining after the satisfaction of all its liabilities shall be transferred to the Municipality.



9 IDENTIFICATION AND QUANTIFICATION OF COSTS AND BENEFITS

9.1 Section 3(3)(e) of the Act states that a municipality must identify and quantify in terms of cost to the Municipality and any benefit to the local community –

i) Exemptions, rebates and reductions.

ii) Exclusions.

iii) Rates on properties that must be phased in terms of Section 21.

## 10 COUNCIL OWNED PROPERTIES

10.1 All Council owned property must be valued. All lessees and purchasers who are required to pay rates in terms of their respective agreements of lease/sale will be subject to payment of rates based on the usage of the property.

## 11 PAYMENT OF RATES

11.1 Payment and recovery of rates, as well as penalties and administration charges on arrear rates, shall be governed by the Municipality's Credit Control and Debt Collection Policy.

## 11.2 Method and Frequency

a) The Municipality shall recover a rate on a monthly basis in eleven (11) near equal instalments together with any supplementary rates,

b) The Municipality may recover a rate annually on application from owners.

c) Such application must be made on or before 15 July of a financial year.

d) The final due date for the payment of annual rates shall be the last municipal working day of September each year.



- e) The Municipality shall recover a rate annually for National and Provincial Government owned properties

11.3 The Municipality may publish a number of Supplementary Valuation Rolls during the year, in accordance with section 78 of the Act. The rates as adjusted by the supplementary valuation roll be levied accordingly,

11.4 The payment of rates shall not be affected by reason of objections and appeals or non-compliance with the rates policy.

## **12 EFFECTIVE DATE**

This policy shall be effective from 01 July 2019 upon approval by Council.

## **13 POLICY ADOPTION**

This policy has been considered and approved by the **COUNCIL OF KWADUKUZA MUNICIPALITY** as follows:

Resolution No: C

Approval Date: xx



# KWADUKUZA MUNICIPALITY DRAFT CREDIT CONTROL AND DEBT COLLECTION POLICY 2019/2020

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For the purpose of this policy, the wording or any expression has the same meaning as contained in the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended from time to time, except where clearly indicated otherwise and means the following:

## 1. DEFINITIONS:

### PART A – CREDIT CONTROL PROCEDURES

#### CREDIT CONTROL AND DEBT COLLECTION POLICY

IT IS HEREBY ADOPTED: A Credit Control and Debt Collection Policy of the Kwadukuza Municipality.

**AND WHEREAS** Section 97 of the Local Government Municipal Systems Act 32 of 2000 provides that the credit control and debt collection policy must provide for credit control and debt collection procedures and mechanisms as well as provision for indigent debtors that is consistent with its rates and tariff policies and any national policies on indigents.

**AND WHEREAS** Section 96 of the Local Government Municipal Systems Act 32 of 2000 provides that a Municipality must collect all money that is due and payable to it for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies;

**PREAMBLE WHEREAS** Section 95 of the Local Government Municipal Systems Act 32 of 2000 obliges the Municipality to establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the Municipality;

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"authorised agent"	Means <ul style="list-style-type: none"> <li>(a) any person authorised by the municipality to perform any act, function or duty in terms of, or exercise any power under these bylaws, and/or</li> <li>(b) any person to whom the municipality has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; end/or</li> <li>(c) any person appointed by the municipality in terms of a written contract or a service provider to provide revenue services to customers on its behalf, to the extent authorized in such contract.</li> </ul>
"average consumption"	Means the average consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the customer's total measured consumption of that municipal service over the preceding six months by six.
"Chief Financial Officer"	Means a Person employed by the Municipality as its Chief Financial Officer.
"account"	Any account rendered for municipal services; sundry charges, housing services rates.
"Act"	The Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) amended from time to time.
"actual consumption"	Means the measured consumption of any customer.
"administration charge"	A fee charged on the capital rates then in arrears as determined by council from time to time;
"agreement"	Means the contractual relationship between the Municipality or its authorised agent and a customer, whether written or deemed.
"applicable charges"	Means the rate, charge, tariff, flat rate, or subsidy determined by the Municipality
"area of supply"	Means any area within or partly within the area of jurisdiction of the municipality such other areas where the service is requested.
"arrears"	Any amount due, owing and payable by a customer to the Municipality in respect of municipal services, sundry charges, housing services and rates not paid by due date.
"arrangement"	Means written agreement entered into between the Council and the debtor where specific repayment parameters are agreed.



"commercial customer"	Means any customer other than household and indigent customers
"connection"	Means the point from which a customer gains access to municipal services.
"Consolidated Bill"	A monthly bill reflecting all monies due to the Municipality in terms of Section 102 of the Act for electricity, refuse rates, vat and sundry charges.
"Councilor"	Means a person as defined in terms of the Act;
"Credit Control"	All functions and processes relating to the collection of monies owed to the Municipality.
"customer"	A person or owner with whom the Municipality or its authorised agent has concluded an agreement or has an account with the Municipality
"debtor"	Means any person indebted to the Municipality;
"defaulter"	Means any customer or ratepayer in arrears.
"deposit"	An amount required as security to be determined by the Municipality.
"due date"	(i) <u>Monthly</u> The monthly date on which all accounts become due and payable which date shall be within 30 days after the date of the account during normal cashier hours.
	(ii) <u>Annual</u> Where the owner has entered into an agreement with the Municipality to pay property rates annually, the due date shall be a date to be determined by Council.
"estimated consumption"	Means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent
"household customer"	Means a customer that occupies or owns a dwelling, structure or property primarily for residential purposes.
"household"	Means a traditional family unit consisting of a combination of persons.
"housing services"	Means any rental (rates if applicable) instalment, administration charges, insurance premiums and housing interest.
"interest"	A charge within the same legal authority as service fees and calculated at a rate determined by Council from time to time on all arrear accounts (capital only).



"illegal connection"	A connection to any system through which the municipal services are provided, which is not authorised or approved by the Municipality or its authorised agent.
"Indigent Customer"	Means a household customer qualifying and registered with the municipality as an indigent.
"MFMA"	Means the Municipal Finance Management Act No 56 of 2003
"Municipal Clearance Certificate"	Means a certificate issued by the Municipality in terms of Section 118 of the Municipal Systems Act, which certifies that all amounts that became due in connection with the property for municipal service fees, surcharge on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid. The certificate issued will be valid for a period of 60 days from date of issue.
"Municipality or Council"	Means the KwaDukuza Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any Official who has delegated powers in terms of Section 59 of the Local Government Municipal Systems Act (Act No. 32 of 2000).
"municipal area"	Means the geographical area of the KwaDukuza Municipality as determined by the demarcation board in terms of the Demarcation Act No. 27 of 1998.
"municipal manager"	Means the person appointed by the municipality as the manager of the municipality in terms of section 55 and 57 of the Municipal Systems Act read with Section 82 of the Local Government Municipal Structures Act 1998 (Act No. 117 of 1998) and includes any person: <ul style="list-style-type: none"> <li>(a) acting in such position; and</li> <li>(b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty.</li> </ul>
"municipal service"	Means services provided by the municipality or its authorised agent, including refuse removal and electricity services.
"occupier"	Includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein.
"owner"	a. the person in whom from time to time is vested the legal title to immovable property;



- b. In case where a person in whom the legal title to immovable property is vested is insolvent or deceased, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- c. In any case where the Municipality or its authorised agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such immovable property or a building thereon;
- d. In the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- e. In relation to:
- i. A place of land delineated on a sectional plan registered in terms of Sectional Title Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of common property; or
- ii. A place of land delineated on a sectional plan registered in the Sectional Title Act, 1986 (Act No. 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such person; or
- iii. a "Home Owners Association", which includes all members of the Association.
- f. the Ingonyama Trust, where the land is vested in the Trust by virtue of the provisions of the Ingonyama Trust Act No. 3 of 1994.
- g. any legal person including but not limited to:
- i. a company registered in terms of the Companies Act, (Act 61 of 1973), a trust, a close corporation registered in terms of the Close Corporation Act, (Act 69 of 1984) a voluntary association and any department of State;
- ii. any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
- iii. any Embassy or other foreign entity.
- "person" Means any natural person, local government body or like authority, a company or close corporation incorporated under any law, body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;



"public notice"	Means publication in an appropriate medium that may include one or more of the following: - <ul style="list-style-type: none"> <li>(a) publication of a notice, in an official language determined by the Municipality in the local newspaper or newspapers in the area of the municipality; or in the newspaper or newspapers circulating in the area of the municipality determined by the Municipality as a newspaper on record; or by means of radio broadcast covering the area of the municipality; or displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent, or</li> <li>(b) communication with customers through public meetings, on the municipality's website, electronic communication, and ward committee meetings.</li> </ul>
"Rates"	Municipal tax levied on the valuation of property. The rate is expressed as cents in the rand.
"Rates Act"	Municipal Property Rates Act 6 of 2004.
"Ratepayer"	Means a person who is liable to the Municipality for the payment of: <ul style="list-style-type: none"> <li>a) Rates on the property within the Municipal area.</li> <li>b) Any other tax, duty or levy imposed by the Municipality, and/or</li> <li>c) Fees for the services provided either by the municipality or in terms of a service delivery agreement</li> </ul>
"resident"	Means a person who ordinarily resides in the Municipal area;
"Service Authority"	Means the power of a Municipality to regulate the provision of a municipal service by a service provider;
"Service Delivery Agreement"	Means an agreement between a municipality and an institution or person mentioned in section 76(b) of the Act in terms of which a municipal service is provided by that institution or person, either for its own account or on behalf of the Municipality.
"Service provider"	Means a person or institution or any combination of persons and institutions which provide a municipal service;
"Service Utility"	Means a municipal entity established in terms of Section 82 B of the Act;
"Staff"	Means the employees of the municipality, including the municipal manager;



"supply zone" Means an area, determined by the municipality or its authorized agent, within which all customers are provided with service from the same bulk supply connection;

"social housing tenant" Any person letting / leasing any residential premises from any public Legal body for less than a full rack rental or letting / leasing residential premises from a private person and receiving from the National / Provincial Government a subsidy or other amount to empower the tenant to pay the full rack rental.

"Tamper with supply of power" Means the unauthorized or illegal consumption of electricity by unauthorized or illegal reconnection of electricity without authority.

"unauthorized services" Means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised approval by the municipality or its authorised agent.

"Vat" A charge legislated in terms of the Vat Act, No 89 of 1991 as amended

"Sundry charges" Any charge excluding a municipal service, housing service and rates.

2. **PURPOSE**

This policy has been compiled as required in terms of Section 96 & 97 of the Local Government Municipal Systems Act 32 of 2000 and is designed to provide credit control and debt collection procedures and mechanisms.

### 3. APPLICATION FOR MUNICIPAL SERVICES

#### 3.1 APPLICATION FOR ELECTRICITY SERVICES (CONVENTIONAL METERS)

3.1.1 The Municipality shall whenever possible, combine any separate accounts of persons who are owners and consumers that are liable for payment to the municipality, into one consolidated account.

3.1.2 All new applications for services shall be only be accepted from the owner and shall be linked to the rates account or name of the owner and not deemed a separate account, except where separate individual units account shall be opened under the name of the owner.

3.1.3 No application or amendment to the customer database can be processed unless legal documentation acceptable to the Chief Financial Officer or in his absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue, has been produced in each instance;

3.1.4 With respect to a residential application, the owner of the property shall submit the following documents:



- a) Certified copy of identity document or passport;
- b) A letter from the transferring attorney confirming ownership or a copy of the Title Deed;  
and



c) Ratable details or rate number of the property, if available.

3.1.5 With respect to a commercial application the following documents must be produced:

- a) The Certificate of Registration or incorporation of the Company, CC, Trust, or Partnership.
- b) Certified copy of the identity document or passport of one of the directors, members, trustees or owner in the case of a sole proprietor, who would open an account.
- c) The names, identity number, cell phone number, physical and postal addresses, email addresses and any other particulars of all the directors or members or trustees or proprietors or partners, as maybe prescribed.
- d) Letters of authority in the case of a partnership or sole proprietor.
- e) Personal sureties from one or more of the Directors / Members of a Company / CC / Trust or Partnership
- f) VAT registration numbers if applicable
- g) Landlords consent / lease agreement / agents mandate between landlord / agent
- h) In the event of the company leasing the property a letter from the owner giving consent to the tenant to apply for Municipal services.
- i) All information furnished shall be verified by the Municipality with any or all data information institutions, credit information bureau's and any financial institutions as may be deemed necessary by the Municipality in determining a person's credit worthiness or for any other reason as determined by the CFO.
- j) The Municipality has a right to conduct a full credit check of any person who is or will become subject to this policy or any other policy of the Municipality.

3.1.6 Customers who fail to apply for services and who illegally consume services will be subjected to punitive measures or such civil or criminal action as the Municipality deems appropriate in terms of Section 45 of the Kwa-Dukuza Municipality Bylaws relating to Credit Control and Debt Collection.

- 3.1.7 If there is an outstanding debt on the property, this debt must be settled in full or suitable payment arrangements must be made by the owner of the property, before the new customer is registered
- 3.1.8 New applications for services from customers who are in arrears with any other municipal accounts shall not be approved unless the arrears have been settled in full or suitable payment arrangements have been made by the applicant
- 3.1.9 Any application for any existing supply of services to any premises must be made at least four working days prior to the service being required, in the prescribed format, and must comply with the conditions as determined by the Municipal Manager or his or her delegate from time to time.



3.1.10 No services shall be supplied unless and until application has been made by the Owner, a service agreement in the prescribed format has been entered into, the deposit has been paid and if applicable the relevant service demand base component and electricity connection fees has been paid.

3.1.11 The municipality shall require an applicant to submit information and documentary proof so as to enable it to bring its records up to date and to assess the creditworthiness of the applicant and may require such information to be provided on oath.

#### **4. SPECIAL AGREEMENTS FOR MUNICIPAL SERVICES**

The municipality or its authorised agent may enter into a special agreement for the provision of municipal services with an applicant: -

- 4.1. within the area of supply; if the services applied for necessitates the imposition of conditions not contained in the prescribed form or these bylaws;
- 4.2. Receiving subsidized services; and
- 4.3. If the premise to receive such services is situated outside the area of supply, provided that the municipality having jurisdiction over the premises has no objection to such special agreement. The obligation is on the customer to advise the municipality having jurisdiction of such special agreement.

#### **5. CHANGE IN PURPOSE FOR WHICH MUNICIPAL SERVICES ARE USED**

Where the purpose for or extent to which any municipal service used is changed, the onus and obligation is on the customer to advise the municipality or its authorised agent of such change and to enter into a new agreement with the municipality or its authorised agent.

### **PART 2 APPLICABLE CHARGES**

#### **6. APPLICABLE CHARGES FOR MUNICIPAL SERVICES**

6.1. All applicable charges in respect of municipal services, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest will be set by the Municipality in accordance with: -

- (a) Its tariff of charges;
- (b) Its credit control and debt collection policy and any other applicable policy;
- (c) Any bylaws in respect thereof; and
- (d) Any regulations in terms of national or provincial legislation.



6.2. Applicable charges may differ between different categories of customers, users of services, types and levels of service, quantities of service, infrastructure requirements and geographical areas.

## **7. AVAILABILITY CHARGES FOR MUNICIPAL SERVICES**

The Municipality shall, as prescribed in the tariff of charges for municipal services, levy a monthly fixed charge, annual fixed charge or once-off fixed charge where such services are not consumed.

## **8. SUBSIDISED SERVICES**

8.1. The Municipality may, from time to time, and in accordance with National Policy, but subject to principles of sustainability and affordability, by public notice, implement subsidies for a basic level of municipal service.

8.2. The Municipality may, in implementing subsidies, differentiate between types of household customers, types and levels of services, quantities of services, geographical areas and socioeconomic areas.

8.3. Public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy:

(a) Household customers who will benefit from the subsidy.

(b) The type, level and quantity of municipal service that will be subsidised.

(c) The area within which the subsidy will apply.

(d) The rate (indicating the level of subsidy).

(e) The method of implementing the subsidy.

(f) Any special terms and conditions which will apply to the subsidy.

8.4. If a household customer's consumption or use of a municipal service is: -

(a) Less than the subsidised service, the unused portion may not be accrued by the customer and will not entitle the customer to cash or a rebate in respect of the unused portion; and

(b) In excess of the subsidised service, the customer will be obliged to pay for such excess consumption at the applicable rate.

8.5. A subsidy implemented in terms of subsection (1) may at any time, be withdrawn or altered in the sole discretion of the Municipality, after: -  
(a) Service of notice as contemplated in Section 115 of the Act on the person affected by the Municipality's intention to consider such withdrawal or alteration; and



- (b) Consideration by the Municipality of any comments or request received from the person affected.

8.6. Commercial customers shall not qualify for subsidised services.

8.7. Subsidised services shall be funded from the portion of revenue raised nationally which is allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

## 9. DEPOSITS FOR MUNICIPAL SERVICES

9.1 Deposits, as prescribed in the tariff of charges, will be due and payable on application by new customers and subject to review upon the movement of existing customers to a new address.

9.2 At the time of registration for a municipal service, a cash deposit and electronic fund transfer shall be required based on the following criteria:

### 9.2.1 Property Owners

- a) Owners are requested to pay a consumption deposit as per the tariff of charges as approved by Council.
- b) Property owners may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either cash, or a guarantee is provided.

### 9.2.2 Tenants

Commercial tenants who wish to register for electricity consumption will be required to pay a deposit as per the tariff of charges as approved by Council and will not be able to reduce this amount by committing to direct debit payments. They may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either the required payment or a guarantee is provided.

This provision does not apply to social housing tenants.

### 9.2.3. Increase In Deposits

The value of the original deposit paid or a guarantee held will be reviewed, on a regular basis, if an irregular and unacceptable payment plan is identified, the customer shall be notified in writing of the revised deposit.

9.3(a) The deposit held shall be utilized to settle the arrear account after final account has been rendered.

9.3 (b) Where the account is in arrears for more than 60 days, the deposit shall be increased by three months average consumption.

9.3 (c) Where the customer poses a credit risk

9.3 (d) Where payment by negotiable instrument or direct debit is dishonoured for more than two times.



## 10.

### ACCOUNTS

9.3(e) Where there is an application for an upgrade to electricity supply.

10.1. Accounts shall be rendered monthly to customers at the address last recorded with the municipality or its authorised agent. The customer may receive more than one account for different municipal services if they are accounted for separately.

10.2. An error or omission in any account or failure to receive or accept an account does not relieve a customer of the obligation to pay an amount due and payable.

10.3. Accounts must be paid by no later than the last date of payment specified in such account.

10.4. a) Assessment rates shall be billed on a monthly basis in terms of Section 64 (2) (b) of MFMA.

b) annually, as may be agreed to with the owner of the property on or before a date as

determined by the Municipality

c) *The Municipality shall recover a rate annually for National and Provincial Government owned properties.*

10.5 Monthly rates shall be levied in eleven equal installments, and subject to change as determined by Council from time to time.

10.6 The Municipality will undertake to have the accounts mailed to all customers. However, failure to receive or accept accounts does not relieve a customer of the obligation to pay any amount due and payable. The onus is on the customer to make every effort to obtain a copy account for payment, and to keep the municipality apprised at all times of any changes to his/her/it's personal details.

10.7 The Municipality or its authorised agent must, if administratively possible, issue a duplicate account to a customer on request. Landlords may request copies of their tenants' accounts.

10.8 The Accounts shall reflect at least

a. The services rendered

b. The consumption of metered services or average, or estimated consumption.

c. The applicable charges

d. The amount due

e. property rates payable

d. Surcharges



- g. Value Added Tax
- h. Any rebates
- i. The adjustments, if any, to metered consumption that has been previously estimated.
- j. The arrears
- k. The interest payable on arrears
- l. The final date of payment
- m. The methods, places and approved agents where payment may be made.
- n. Administration charges
- o. Payments received.
- p. Period stipulated in the account.
- q. Any subsidies.
- r. Any other adjustments

10.9. The Municipality shall post the rates assessment.

## **11. PAYMENT OPTIONS**

11.1 The Municipality must endeavor to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site.

11.2 Customers must ensure that payments made through third party agents are made at least 3 working days prior to the due date. The Municipality will not accept responsibility for delays in receipt of payments.

11.3 The following payment methods are also available:

- (i) Cash
- (ii) EFT
- (iii) Internet Transfers;
- (iv) Third party collectors appointed from time to time by the Municipality;
- (v) Direct Debit (ACB)
- (vi) Credit card or debit card
- (vii) Debit Order payments

11.4 The following shall apply for all payments from debtors:

- (i) Proof of payment from debtors shall be required if payment is not yet received on the debtor account.
  - (ii) Proof of payment from the customers will be verified, where applicable, for authenticity.
- 11.5 Where a Customer signs an application for services with the Municipality, payment shall, as far as possible be accepted via a direct debit procedure



## 12. DISHONOURRED PAYMENTS

Where any payment made to the Municipality or its authorised agent by negotiable instrument, is later dishonoured by the bank, the municipality or its authorised agent:

a) shall recover all applicable charges.

b) shall regard such an event as a default on payment and shall disconnect services without notice and or reserves the right to take legal action.

c) shall require all future payments to be made by cash or electronic fund transfer in an event where more than two cheque payments from the debtor have been dishonoured by the bank

## 13.

### CASH ALLOCATION PRIORITIES

13.1 When part payments are received against a Consolidated Account, the Municipality shall allocate such payments first to the oldest debt and then to the current debt in terms of the following table of priorities as determined from time to time:

PRIORITY NO.	STATUS	SERVICE
1	Arrears	All other Municipal charges including interest, administration charges and penalties.
2	Arrears	Additional Deposits
3	Arrears	Sundry Charges
4	Arrears	Housing Charges
5	Arrears	Refuse Charges
6	Arrears	Rates
7	Arrears	Electricity Charges
8	Current	All other Municipal charges including interest, administration charges and penalties.
9-	Current	Additional Deposits
10	Current	Sundry Charges
11	Current	Housing Charges



12	Current	Refuse Charges
13	Current	Rates
14	Current	Electricity Charges
15	Vat	Will be allocated in terms of the Vat Act of 1991

#### 14. **RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE**

14.1. Any amount due to the municipality for municipal service fee, surcharge on fees and any other municipal taxes and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

14.2. Accordingly, all such municipal debts shall be a charge upon the property and shall be payable by the owner of the property, notwithstanding the provisions of any other sections of the bylaws.

14.3. Any person who purchases or otherwise acquires or leases immovable property from the Municipality shall be deemed to be the owner thereof from the date of such purchase or other acquisition by him or from the commencement of such lease, as the case may be.

14.4. Where the property is owned by more than one person, each such person shall be liable jointly and severally for all Municipal debts charged on the property.

14.5. Owners shall be held jointly and severally liable, with their tenants who are registered as customers for municipal services.

14.6. Tenants and/or agents shall be held liable for arrear rates restricted to the rental, in terms of the Section 28 of the Municipal Property Rates Act No.6 of 2004.

14.7. When electricity consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised the relevant charges shall be raised against the registered owner.

14.8. When a customer terminates a consumption account and no new customer registers, a property is deemed to be unoccupied. The owner shall be responsible for the account.

14.9. When the property is owned by company or close cooperation, each member or director shall be liable jointly and severally for all Municipal debts charged on the property

14.10. Where the company has been deregistered and there are amounts due to the municipality, the municipality or its authorised agent shall apply to the Companies and Intellectual Property Commission to re-register a deregistered company or close corporation or apply to court for an order of restoration or the voiding of the deregistration for the purposes of recovering the amounts owed by that company or close corporation for all municipal debts which have accrued and shall recover the costs of reregistration from the directors or members accordingly.



## 15. TERMINATION / TRANSFER OF ELECTRICITY ACCOUNTS

15.1 A customer who intends to terminate or transfer a municipal service shall notify the Municipality in writing within 14 days prior to the date of termination or transfer and shall also furnish the Municipality with the forwarding address.

15.2 A final reading shall be recorded on the termination date and the customer will be billed for the consumption.

15.3 If a current tenant terminates his/her account, the meter and the outstanding debt on that property automatically reverts back to the owner account and no further applications for tenants will be accepted

15.4 The deposit shall be appropriated against the account. Should a credit balance remain on the account, after appropriation of the deposit, such credit balance may be refunded to the customer or transferred to the new municipal service.

15.5 A final account that remains unpaid for a period of 30 days shall be:-

- (a) Transferred to the owner's current account.
- (b) Recovered through our debt collection procedure.

## 16. INTEREST / ADMINISTRATION CHARGES ON OUTSTANDING ACCOUNTS

The Municipality shall in terms of Section 97(1)(e) read with Section 75A (as amended by G.G. No. 24149 dated 05/12/2002) of the Act:

16.1 Charge interest and or penalty as specified in the tariff of charges from time to time.

16.2 10% Administration charges raised on the outstanding rates for the current year:

- (a) On annual rates payers:
  - ☐ 60 days succeeding the final due date.
- (b) Monthly rate payers:
  - ☐ Administration charges shall be raised on the 1<sup>st</sup> of July on all outstanding rates not paid as at the 30<sup>th</sup> June each year.
- (c) On monthly rates accounts that have been changed to annual billing as a result of arrears, a 10% administration charge will be raised 60 days after that change.

16.3 Charge all legal costs incurred for debt collection commission (if applicable) once the debt has been handed over for collection.

16.4 The general power to levy and recover administration charges and interest on any outstanding amount shall be determined by the municipality by resolution passed by the Municipal Council from time to time.



## 17. DEBT COLLECTION

17.1. The debt collection policy determines that municipal accounts shall be paid on the due date as indicated on the account and that non-payment of accounts will result in debt collection action. Where an account rendered to a customer remains outstanding for more than 60 (sixty) days the municipality or its authorised agent may: -

- (a) Institute legal proceedings against a customer for the arrears; or
- (b) Hand the customer's account over to a debt collector or an attorney for collection.

17.2. A customer will be liable for any legal fees, cheque costs, postal charges, administration fees, short and /or electronic communication in taking action for the recovery of arrears and any interest.

17.3 In the event of an occupier account being in arrears for more than 30 days, the registered owner will be informed of the arrears on the account and Council's intention of terminating the account and services and linking the meter to the owner's account. The debt will revert to the owner's account.

17.4 Council shall authorize Credit Control to adhere to the following procedure when undertaking the consolidation of accounts:

- (a) Consolidation shall be done immediately if owner and occupier accounts are the same and arrears emanates from the occupier account.
- (b) Notify the owner in writing about the consolidation, in order to ensure that the owner is aware of the meter being disconnected due to arrears if not settled by a specific date.
- (c) Accounts where the owner and the occupier are different and occupier account is in arrears: first formally inform the owner about the arrears and intentions to merge or consolidate the accounts by a specific date,
- (d) Merge only when after the said date has passed and if there are no queries or payment received.
- (e) Further, formally inform the owner that should the arrears indicated on the letter be settled prior to the specific date, should the account subsequently fall in arrears, the account will be merged immediately without further notice to the owner or occupier.

## 18 ARRANGEMENT FOR PAYMENT OF ARREAR ACCOUNTS

18.1 A customer may enter into an arrangement with the Municipality for the repayment of an arrear account by concluding: Arrangement for repayment of Arrear debt may not be granted where:

- (a) Arrears have arisen due to dishonored cheques and direct debit reversals more than two times.
- (b) Instances of meter tampering and illegal electricity connection have been identified, or services have been removed.

18.2 Where arrears do not emanate as stipulated in clause 18.1 above, the Municipality may, at its discretion, enter into an arrangement with the registered owner of the property in respect of the arrears for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies, duties and community charges. Such agreement must include maintenance of the current monthly charges.

18.3 All services must be consolidated into one account before an Acknowledgement of Debt is entered into.



18.4	Electricity/Consolidated bill/ Sundry Debtors each defaulting account holder will be allowed to make a first payment of 40% of the arrears, together with the current account irrespective of the final payment date of the current account, plus the disconnection/reconnection fees, blocking/unblocking fees, thereafter, payment of the balance plus current instalment shall be paid over a period of six months.
18.5	The Chief Financial Officer or in his absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue shall be authorized to vary the arrangement as stipulated in clause 18.4 above at his/ her discretion.
18.6	The registered owner of the property shall enter into an arrangement with the Municipality for the repayment of the arrear account by concluding
(a)	An acknowledgement of Debt duly signed by both parties together with an emolument order and
(b)	The owner of the property must consent in writing to an Arrangement with the municipality and his tenant, whereby he acknowledges that he is jointly and severally liable for all arrears should the tenant default
(c)	Acknowledge that interest will be charged at the prescribed rate.
(d)	Acknowledge that if the arrangements being negotiated later are defaulted on, disconnection of electricity or blocked from buying electricity on the Prepayment System will follow immediately, as will legal proceedings. Acknowledge liability of all legal costs incurred.
(e)	Only the registered owner of the property with positive proof of identity or an authorised agent with a power of attorney will be allowed to enter into an arrangement for the payment of arrear accounts in instalments.
(f)	By entering into an arrangement to pay the customer acknowledges that failure to meet any instalment will result in prompt disconnection action being taken or the customer will be blocked from purchasing prepaid electricity and the balance of the arrear account together with the current account, interest raised on such account will immediately become due and payable to the municipality. This does not preclude any legal action the Municipality may take.
(g)	Prior concluding the agreement the owner shall be compelled to produce the prepaid electricity card and or conventional meter number.
18.7	Arrangements negotiated on business accounts shall require the arrangement to be signed by a duly authorised Director / Member of the company and or close corporation. Such director and member shall be obliged to sign a personal surety to secure the payment of the company and or close corporation's liability to the Municipality. Under no circumstances are agreements to be completed without such sureties
18.8	Arrangements negotiated with Trusts shall require such arrangement to be signed by a duly authorised trustee of the trust. However, all trustees are obliged to secure the indebtedness of the trust by signing a personal surety jointly and severally to secure the payment of the trusts liability to the Municipality. Under no circumstances are agreements to be completed without such sureties
18.9	Details of the original amount of the Arrangement, the monthly instalments, and the current balance outstanding thereon, are included on each subsequent account until such time as the arrangement is liquidated by full payment of the debt
18.10	A customer shall be charged interest on arrear account at the prescribed rate of interest.
18.11	The Municipality or its authorised agent shall require a customer to first pay its current account before entering into an agreement to pay the arrears as set out in clause 18.4 above
18.12	The Municipality reserves the right to:
(a)	Raise the security deposit requirement of such customer who enters into an agreement in terms of clause 9.2.3 above
(b)	Demand that a Deed of Suretyship be completed.
18.13	Re-connection or unblocking of electricity meter will be effected within 48 hours of payment after the arrangement has been concluded.



**19. BUSINESSES WHO TENDER TO THE MUNICIPALITY**

- 19.1 When inviting tenders for the provision of services or delivery of goods, potential contractors may submit tenders subject to a condition that consideration and evaluation thereof will necessitate that the tenderer obtain from the Municipality a certificate stating that all relevant municipality accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of noncompliance) have been made for the payments of arrears. To this end, copies of the all municipal accounts and the identity documents of all directors, members or partners must be submitted together with the bid document.
- 19.2 No tender shall be allocated to a person / contractor until suitable arrangement for the repayment of arrears, has been made. The tenderer must maintain arrangements and pay current installments as provided for in any contract with the Municipality.
- 19.3 Where payments are due to a contractor in respect of goods or services provided to the Council, any arrear amount owing to the Council shall be offset as a first charge against such payments as provided for in the contract with the Municipality.
- 19.4 A condition allowing the Municipality to deduct any moneys owing to the Municipality from Contract payments must be written into the agreement.

**RATES ASSESSMENT**

**20. LIABILITY FOR RATES**

- 20.1. The provisions of Chapter 3 shall apply in respect of the recovery of assessment rates.
- 20.2. All assessment rates due by owners are payable by fixed dates determined by Council.
- 20.3. Joint owners of property shall be jointly and severally liable for payment of assessment rates.
- 20.4. Assessment rates shall be levied in equal monthly instalments. When levied in equal monthly instalments the amount payable shall be included in the municipal account.
- 20.5. A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that: -
- (a) The property is not occupied by the owner thereof; and/or
  - (b) The municipal account is registered in the name of a person other than the owner of the property.
  - (c) The furnishing of an incorrect address.
- 20.6 Rates and all other municipal charges in respect of properties situated in special rating areas as designated by Council shall be paid in full before any payment is made to the Section 21 Company.



## **MUNICIPAL CLEARANCE CERTIFICATES**

21.

Subject to Sections 118(1) and (1A) of the Act, the following shall apply to the issue of a Municipal Clearance Certificate for the purpose of effecting transfer of a property to a new owner.

### **21.1 Assessments**

21.1.1 Application shall be made by the Conveyancing Attorney, in the prescribed format by providing the following information in respect of the property in question:

i. Present owner of the property;

ii. Property description;

iii. Physical address;

iv. Rates Account No's;

v. Electricity Account No's. (Or electricity meter no's.);

vi. Purchasers details; identity numbers and postal address and Purchasers domicile (domicilium citandi et executandi);

viii. With respect to Vacant Land, an Affidavit from the seller that the property does not have a electricity supply connection and an undertaking from the purchaser that should a electricity supply connection be discovered on the property and such account is in arrears, then the purchaser accepts liability for such arrears.

Copies of all the accounts must accompany the application. If the relevant information is not provided, the application will be returned to the conveyancer.

21.1.2 Every effort will be made to issue an assessment within five working days of receipt of application. Certain delays may be experienced in respect of:

i. New sub-divisions;

ii. Pending building plans;

iii. Special investigations.

With respect to the aforesaid, the following is required to be submitted to the consultant valuers:

a. a copy of the survey diagrams/general plans;

b. a copy of the sale agreements;



- c. a copy of the relevant proclamation notices;
- d. seller contact details; and
- e. building plans on request.

Conveyancers will be notified of possible delays.

21.1.3. The assessment shall include the following:

- i. Rates 3 months advance payment.
- ii. Refuse removal charges 3 months advance payment.
- iii. Electricity - Actual balance outstanding at date of assessment being approved less any deposit on hand.
- iv. Other - Actual balance outstanding at date of application. v. Municipal Certificate Fee- As per the prescribed tariff.

21.1.4 Period of validity

The assessment shall remain valid for a period of 30 days. If payment has not been received within this period, a re-assessment may be required and payment of a further municipal clearance fee will apply.

21.1.5 The onus rests with the seller to ensure:

- i that all buildings on the property are in accordance with the building plans approved by the Municipality;
- ii the premises in question are being utilised in accordance with its zoning;
- iii that all outstanding accounts accruing to the Municipality in respect of the property is fully paid.

21.1.6 Any discrepancies in respect of the above may result in delays in issuing of a clearance certificate, and in addition may result in levying of additional backdated rates and / or penalties and / or service charges.

21.1.7 Any amounts paid shall be appropriated to the oldest debt first.

21.1.8 Municipal Clearance Certificates

- i Every effort will be made to issue a Municipal Clearance Certificate within five days of receiving payment;
- ii Payment on the assessment must be made in cash or electronic fund transfer
- iii An unconditional letter of undertaking maybe accepted in lieu of a cash payment in fully motivated exceptional circumstances, and subject to the written approval of the Chief Financial Officer or in his



absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue of the Municipality.

iv The letter of undertaking must be:

Issued by the Conveyancing Attorney, in the prescribed format;  
Unconditional;

For the full amount outstanding; and  
For a specified period of time acceptable to the Municipality

21.1.8.1 An Attorney's Trust cheque may be accepted in lieu of cash payment

21.1.8.2 There shall be no refunds on the cancellation of a sale.

21.1.8.3 The Certificate shall be valid for a period of 60 days from date of issue.

21.1.8.4 No certificate, in terms of Section 118 of the Systems Act shall be issued where the property owner has not complied with any relevant legislation, policy or agreement relating to the property in question.

21.1.8.5 The Municipality reserves the right to follow any of the legal mechanisms available to it in order to recover the balance of the debt, including, lodging an urgent application to interdict the sale of the property until the debt is paid in full.

21.1.8.6 Notwithstanding that the debt remains a charge on the property, the seller shall furnish to the Municipality new contact details, in writing, comprising a postal and physical address and such further information as may be determined by the CFO from time to time, prior to the Municipality issuing the rates clearance certificate. The seller shall continue to keep the Municipality informed of any change in contact details until such time as the Municipality has confirmed in writing that all amounts that became due whilst the property was in the ownership of the seller (whether or not raised at the time of the rates clearance certificate) have been paid up. Non-compliance with this clause will be regarded as an offence.

## 22. PROPERTY RATES

22.1. All properties within the boundary of the Kwadukuzi Municipality are to be valued in terms of the legislation applicable to the valuation of properties for the purposes of levying property rates.

22.2. Rebates on rates may be granted by Municipality in terms of the Municipality's rating policy.

22.3. Owners must pay the property rates in eleven equal monthly instalments or over a period as determined by Council or by agreement pay rates on an annual basis. Regular monthly instalments payments must be maintained.



23. **PAYMENT OF CURRENT RATES**

23.1. In terms of Section 26 of the Municipal Property Rates Act:

- i) A municipality may recover a rate –
- (a) on a monthly basis or less often as may be prescribed in terms of the Municipal Finance Management Act; or
- (b) annually, as may be agreed to with the owner of the property.
- (c) If a rate is payable in a single amount annually it must be paid on or before a date determined by the municipality.
- (d) If a rate is payable in instalments it must be paid on or before a date in each period determined by the municipality.

23.2 In the event of the ratepayer failing to pay any three monthly instalments during the financial year in which the rates are raised then the ratepayer shall be liable to pay the full outstanding rates.

24. **UNALLOCATED CONSUMPTION**

- a) When electricity consumption is recorded on a property during a period for which there is no registered customer against whom a bill can be raised the relevant charges shall be raised against the registered owner.
- b) When a customer terminates a consumption account and no new customer registers, a property is deemed to be vacant. The account shall be forwarded to the owner until he advises the Municipality to the contrary: --
  - i) **for business premises** - Instructions to disconnect the electricity supplies to the property must be issued immediately and actioned;
  - ii) **for residential premises** - a courtesy letter is forwarded to the new occupier or owner advising of the need to register as a customer and indicating the application procedures that need to be followed. Failure to respond to that letter within a 7-day period will result in the issue of supply disconnection instructions.

25. **ILLEGAL ELECTRICITY CONNECTION**

In the event of it being found that any electricity connection had been made illegally by any person than then the following shall take place:

- a) the electricity shall be disconnected with immediate effect
- b) The occupier/owner/developer jointly and severally shall pay a penalty as per the tariff of charges.



c) The occupier/owner/developer shall be jointly and severally liable for consumption charges.

d) The occupier/owner/developer shall be jointly and severally pay interest on the consumption Charges at the rate as determined by Council in the tariff of charges from time to time, from the date of disconnection to date of payment

e) The applicant shall pay the outstanding municipal account in full, including current installment, interest and penalty fees, payment of unauthorized consumption, disconnection and reconnection fees, and increased in a deposits as determined by Council in the tariff of charges, shall become due and payable before any reconnection can be sanctioned. Where a consumer and/or any person has contravened sub-section (1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover the full cost of his estimated consumption, retrospective to the determined date of tempering /interruption to the electricity.

g) Application for new services shall only be accepted from the owner of the property.  
h) Application for new services shall only be accepted from the owner of the property.  
i) Reconnection of electricity services shall be undertaken by Electrical Department upon receipt of the clearance certificate from Finance Department.  
j) No acknowledgement of debt shall be entertained.  
k) Council reserves the right to lay criminal charges and/or to take any other legal action against the customer or the consumer.  
l) The owner of the property remains liable and responsible in all instances of unauthorized reconnections and disconnections, illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Further, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

## 26. ASSISTANCE TO THE POOR

26.1 The Municipality may extend indigent support to any customer on application to the Municipality in the prescribed manner as set out in the Municipality's Indigent Policy

26.2 Indigent support shall be withdrawn by the Municipality in the event of the recipient misusing the system or providing incorrect information. In this regard the Municipality shall:

- i. Recover from the recipient the amount of relief furnished by debiting his account.
- ii. Apply the normal credit control in accordance with the Credit Control and Debt Control policy.
- iii. Institute a criminal charge of fraud against the recipient.

## 27. DEBT RELIEF PROGRAMME



27.1 Council shall promote assistance to the poorer by embarking on a debt relief programme, the indigent customer who cannot conclude the Acknowledgement of debt as per Council Credit Control and debt collection policy, shall adhere and undergone to the following procedures:

- a) The indigent Customer shall be required to complete the income and expenditure form, in order to determine the minimum amount payable upfront when concluding the Acknowledgement of debt. All supporting documents shall be produced by an applicant, in order for Finance to conduct thorough system verification.
- b) The acknowledgement of debt shall be approved only on condition that the system verification shall prove to be correct.
- c) Upon approval of Acknowledgement of debt, the outstanding debt owed by indigent customer, shall not attract any interest and penalties, only on condition that the customer pays or maintains the current account.

## 28. AGREEMENT WITH EMPLOYERS

28.1 Section 103 of the Act reads as follows: --

"A Municipality may:

28.1.1 with the consent of a person liable to the municipality for the payment of rates or other taxes or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of the person-

28.1.1.1 any outstanding amounts due by that person to the Municipality; or

28.1.1.2 such regular monthly amounts as may be agreed."

28.2 the onus to introduce such arrangements remains with each employer / employee.

## 29. STAFF IN ARREARS

29.1 Item 10 of Schedule 2 to the Act states that: - "A staff member of the Municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months and a municipality may deduct any outstanding amounts from a staff member's salary after this period."

29.2 The Municipality shall liaise with the relevant staff and their departmental representatives and issue the necessary salary deduction instruction where appropriate, in terms of the Provisions of the Basic Conditions of Employment Act and other relevant legislation.

29.3 No special treatment shall be afforded to staff member whose accounts are arrears.

29.4 Once the arrears or debt is settled in full, the account will automatically revert to staff group account.



**30. COUNCILLORS IN ARREARS**

A councillor may not be in arrears to the Municipality for rates and service charges for a period longer than 3 months in terms of Section 12A of the Act.

- 30.1 The Municipality, upon consultation with the Council, shall make appropriate arrangements to have the arrears paid.
- 30.2 The Municipality shall liaise with the relevant Council and the Speaker, in order to issue the necessary salary deduction instruction where appropriate
- 30.3 No special treatment shall be afforded to the Council or whose accounts are arrears.
- 30.4 Once the arrears or debt is settled in full, the account will automatically revert to the group account.

**PART B - DEBT COLLECTION PROCEDURES**

**31. ARREAR MESSAGE ON ACCOUNTS**

32.1 When a monthly account is in arrears, the next account will clearly highlight an appropriate reminder message.

**32. CONVENTIONAL ELECTRICITY METERS**

32.1 Disconnection orders are issued after final payment date. Where arrears are brought forward, the above may not apply.

32.2 Re-connection instructions are issued as soon as:

- a) payment is received at an on-line facility;
  - b) proof of payment at an off-line facility is received; or
  - c) satisfactory credit arrangements have been entered into and we are accordingly advised of such payment (refer to 18.6.)
- Re-connection action will be effected within 48 hours of payment.

32.3 Follow-up meter readings within one month are taken for all customers who fail to respond to the physical disconnection to ensure that the supply has, in fact, been disconnected and no payment received.

**33. APPLICATION FOR CONNECTION OF PREPAID AND CONVENTIONAL ELECTRICITY METER**

Applications for connection of prepaid and conventional electricity meter shall only be accepted from the Owner of the property. The owner shall ensure

- a) All applications are made and processed at the electrical department of KwaDukuza



Municipality.

- b) The applicant is to obtain from the enquiry clerk at the finance department the full balance of any amount due, owing and payable in respect of any municipal account.
- c) The applicant shall pay the outstanding municipal account in full.
- d) Once payment has been made, the enquiries clerk at finance department shall issue a certificate to the customer reflecting that the outstanding municipal rates and services accounts have been paid.
- d) The consumer shall only be able to purchase the prepaid electricity meter from the municipality after the certificate has been handed to the electrical department.
- e) The consumer shall only be able to proceed with the prepaid or conventional electricity meter application with the municipality after the certificate has been handed to the electrical department.
- f) Arrear debt of consumers with prepayment electricity meters shall be dealt with in terms of debt collection facilities available on the prepayment electricity system.

#### 34. **TAMPERING AND/OR THEFT OF SERVICES ON PREPAID AND CONVENTIONAL ELECTRICITY METER**

- 34.1 Any person found to be illegally connected to municipal services, tampering with prepaid or conventional electricity meters, will be prosecuted and shall be liable for:
- 34.2 The total outstanding debt on the property including the current instalment, interest and tamper fee, shall become due and payable before any application for new connection of electricity service can be sanctioned.
- 34.3 The registered owner of the property shall be obliged to make application for new connection of electricity services and all application for new services shall be accepted from the registered owner of the property.
- 34.4 All applications shall be made and processed at the Electrical department of KwaDukuza Municipality.
- 34.5 The registered owner of the property shall obtain from the Enquiries Clerk at the Finance department, the full balance of any amount due, owing and payable in respect of any municipal account
- 34.6 The registered owner of the property shall pay the outstanding municipal account in full including the current instalment, interest and tamper fee before any application of new services is sanctioned.
- 34.7 Where a consumer and/or any person has contravened sub-section (1) and such contravention has resulted in the meter reading less than the true consumption, the Municipality is entitled to recover the full cost for the estimated consumption to the determined date of tampering interruption to the electricity. Once the new meter has been installed and the consumption be monitored over a period of time.
- 34.8 Once the payment has been made, the enquires clerk at finance department shall issue a clearance certificate to the customer reflecting that the outstanding municipal services and rates have been paid in full (no arrangement with be entertained). Reconnection of electricity services shall be undertaken by Electrical Department upon receipt for the clearance certificate from Finance Department.
- 34.10 Further instances of tampering will result in the disconnection of the electricity supply and the removal of the relevant metering and connection equipment, Customers in such instance will then need to pay for the full cost of the new connection of a conventional electricity meter and all the outstanding charges before installation of the conventional meter.
- 34.11 Electricity metering and connection equipment remain on the property of the Municipality at all times and anyone involved in instances of tampering, damaging or theft thereof is committing a criminal offence



and shall be liable for prosecution and/or civil claims/penalties by the Municipality and Council reserves the right to lay criminal charges and/or to take any other legal action against the customer or consumer

34.12 No arrangement of debt shall be entertained.

34.13 The owner of the property remains liable and responsible in all instances of unauthorized reconnections and disconnections, illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Further, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

### 35. PROPERTY RATES AND CONSOLIDATED BILLING

35.1 Property rates shall form part of the Consolidated Bill

35.2 Arrear rates or any other consolidated debt may result in disconnection of services.

35.3 The Municipality may, in terms of Section 28 of the Municipal Property Rates Act, recover arrear rates from tenants / managing agents in occupation of the relevant property but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property. This does not preclude further legal action against the owner.

35.4 The Municipality may make application to court for judgment, costs and the summary sale of the property in appropriate circumstances. Legal costs and collection commission if applicable shall be debited to the relevant debtors accounts. In the event of the Municipality through its internal collection procedure recovering the debt from the customer, the customer shall be liable for any disbursements and any other charges as reflected in the tariff of charges, and collection commission if applicable.

35.5 Once judgment is obtained the properties will be advertised and sold through public auction.

35.6 The municipality shall follow the legal process to recover any portion of the debt outstanding for more than sixty (60) days.

### 36. LEGAL ACTION

36.1 Where an account rendered to a customer remains outstanding for more than sixty (60) days the Chief Financial Officer or in his absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue shall

(a) Hand the customer's account over to a debt collector or an attorney for collection.

(b) Institute legal proceedings through its authorised agents or attorney against a customer for the arrears; or



36.1.2. Legal steps shall be taken to collect arrears such as in the following cases;

- Where cut-off action yielded no satisfactory result;
- Where no cut off action is possible due to the nature of the services for which the account has been rendered
- Where the arrears are older than sixty 60 days

36.1.3 A pre investigation into the account and debtor details is carried out before the preparation of a summons. The data of an appointed Credit Bureau is utilized. Telephonic or other forms of contact may be made with the debtor, at the municipality's discretion, prior to the issue of summons and / or other legal proceedings;

36.1.4. A customer will be liable for any legal fees, cheque costs, postal charges, administration fees, costs incurred in taking action for the recovery of arrears and any penalties, including the payment of a higher deposit, as may be determined by the Municipality from time to time.

36.1.5 The following table shall be utilized to show the thresholds in respect of the debt value and the recovery action therein:

DEBT VALUE RAND	RECOVERY ACTION
Up to R500	Letter of Demand and/or Summons at the discretion of the C.F.O.
from R501 to R1000	Letter of Demand - Proceed to the issue of summons should the debtor appear to be of sufficient financial stature. Any further legal action is at the discretion of the Chief Financial Officer or the Director Revenue in his absence or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue.
From R1000 onwards	Letter of Demand – Proceed to the issue of summons. Assess the likely financial stature of the debtor, incur tracing costs where appropriate and proceed along the legal route reviewing at each stage whether it is viable to continue incurring costs.

36.1.6 All Offers of Compromise, out of court settlement offers, and/or settlement offers for full and final payment received, are to be approved by the Council

36.1.7 The Municipality may enforce any other rights or exercise any power conferred on it by any other legislation.



36.1.8 The Municipality may through its own internal policy proceed to recover all outstanding debt and charge disbursements and collection charges.

36.1.9 If the Chief Financial Officer or in his absence the, Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue is of the opinion that the institution or continuation of proceedings for the recovery of any amount shall be fruitless or not cost-effective, the Chief Financial Officer may recommend to the Council that such action be not commenced, or be discontinued or terminated.

36.1.10 The council shall then approve the write-off of such arrears, if it is satisfied with the reasons provided.

36.1.11 The Chief Financial Officer shall be authorized to approve the writes off, of all irrecoverable debts up to the value of R500.00, only on condition that satisfactory reason has been provided.

#### 36.2 AUTHORITY TO RECOVER ADDITIONAL COSTS AND FEES

The municipality or its authorised agent has the authority to, in consultation with the Municipality's authorized officials, notwithstanding the provisions of any other sections contained in the Credit Control and Debt Collection bylaws, to recover any additional costs incurred in respect of implementing the Credit Control and Debt Collection bylaws against the account of the customer, including but not limited to:

36.2.1 All legal costs based on the prescribed fees as set out in the Schedule of the Magistrate Court Act (32 of 1944) and the Rules of the Supreme Court are the maximum fees that COUNCIL will pay an attorney/authorized agent for his/her services. The Municipality's authorised agent will not demand rates exceeding the prescribed rates.

36.2.2 In the event of legal services being rendered which falls outside the scope of tariff, the Municipality's authorised agent dealing with the matter shall negotiate a reasonable fee with the Municipality.

36.2.3 All collections due and payable by the debtor shall be paid directly into the Municipal Account as directed by the Municipal authorized agent/ attorney and no Municipal agent/ attorney is authorized to collect any monies on behalf of the Municipality.

#### 37. DEBT ARRANGEMENT

Customers have been categorised into the following income categories: -

- Indigent (Gross household income of less than the monthly amount determined by Council)
- Not Indigent (Gross household income of more than the monthly amount determined by Council for indigent)
- Non-domestic (excludes Government Departments)
- Government Departments.



37.1 The principle of limited vending to encourage customers with arrears to buy a predetermined amount of electricity per month, will apply.

37.2 The principle that the monthly account must be paid, will apply.

**37.3 Debt Arrangement by Indigent Customers who utilizes prepaid electricity meter**

- (a) Indigent consumers will be required to pay 40% of the arrears, together with current monthly instalment, irrespective of the final payment date of the current account, plus the administration fee in respect of blocking and unblocking. Thereafter, payment of the balance plus current instalment shall be paid over a maximum period of 36 months.
- (b) The total block can only be removed after the necessary payment arrangements have been made with Council.
- (c) The Chief Financial Officer or in his absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue shall be authorised to vary the arrangement as stipulated in clause 18.4 above, at his discretion
- (d) Every time the consumer makes a purchase, 40 percent of the amount tendered for the purchase of electricity shall be allocated towards arrear debt. This type of block is another method to collect arrear debt and not the current account. A percentage of each purchase of electricity is allocated towards the debtors arrear balance and debtors are also blocked from buying electricity for monthly charges.
- (e) Indigent customers will be allowed to purchase average monthly electricity consumption of such consumer with the maximum amount of electricity as determined from time to time.

**37.4 Arrangements by indigent customers who utilizes conventional electricity meter**

- a) Arrangement for the payment of debt shall be payment of 40% of the arrears, together with current account, irrespective of the final payment date of the current account, plus the disconnection and re-connection fees. Thereafter, payment of the balance plus current instalment shall be paid over a maximum period of 36 months.
- b) The Chief Financial Officer or in his absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue shall be authorised to vary the arrangement as stipulated in clause 18.4 above, at his discretion

**37.5 Debt Arrangement by Non-Indigent Customers who utilizes prepaid electricity meter**

- a) Payment of 40% of the arrears, together with current monthly instalment, irrespective of



the final payment date of the current account, plus, the administration fee in respect of blocking and unblocking. Thereafter, payment of the balance plus current instalment shall be paid over a maximum period of 6 months

b)

The Chief Financial Officer or in his absence the Director Revenue or the Director Legal or the Municipal Manager in consultation with the Chief Financial Officer and Director Revenue shall be authorised to vary the arrangement as stipulated in clause 16.4 above, at his discretion.

### 37.6 Debt arrangement – Prepayment system

39.6.1 The prepayment electricity system implemented by Council has a debt management facility.

The Debt Management facility provides various blocking types, which can be utilized to collect arrear debt.

#### Total Block

The consumer shall be blocked from buying electricity due to arrear debt and can be unblocked when: -

The arrear debt plus current instalment and the administration fee in respect of blocking and unblocking must be paid in full, or Arrangements have been made to pay off the arrear debt and the arrangements have been captured on the system

### 37.6.3 Minimum monthly instalment with monthly vend limit

The consumer arranges to pay a minimum monthly instalment and to purchase a limited amount of electricity to be purchased to prevent consumer's from purchasing more than one month's electricity to avoid arrear payments. The minimum monthly instalment includes the consumer's monthly account plus a payment to arrears. If the consumer pays less than the minimum instalment the system will not allow purchase of electricity. If the consumer pays more, the additional amount is taken off the outstanding arrears, but the monthly instalment stays the same until his arrears are paid off.

### 37.6.4 Minimum weekly instalment with weekly vend limit

Same as 36.6.3 above but weekly instalments are arrangements with weekly limits on the amount of electricity to be purchased.

37.6.5 Every time the consumer makes a purchase, 40 percent of the amount tendered for the purchase of electricity shall be allocated towards arrear debt. This type of block is another method to collect arrear debt and not the current account. A percentage of each purchase of electricity is allocated towards the debtors arrear balance and debtors are also blocked from buying electricity for monthly charges.



### 38. BAD AND DOUBTFUL DEBT PROVISION

Bad and doubtful provisions should be calculated and provided in the accounting records as follows:

38.1 The provision for bad and doubtful debt will be calculated in terms of the relevant generally recognized accounting practices.

## PART C – CUSTOMER CARE MANAGEMENT

### 39. CUSTOMER CARE MANAGEMENT

The municipality shall, for the levying of rates and taxes for the **municipal charges**, within its final and administrative capacity, have the following principles pertaining to customer care and management:

39.1 Establish a sound management system between the consumer and the municipality, to create a harmonious relationship between the consumer and the municipality so that consumers are treated with respect and dignity.

39.2 To establish a customer call Centre, with a shared call facility to attend to the following:

- a) Council shall authorize Credit Control to embark on telephonic, short message system and email follow ups between 8h00 and 20h00, in order to remind consumers about the arrear debt and encourage them to make payments.
- b) to send short notices to all consumers in arrears
- c) To receive communication from consumers regarding the quality of service, performance of the municipality and the accuracy of the accounts.
- d) To enable consumers to query and verify their accounts (metered electricity accounts, rates and refuse, sundry and housing) and to promptly resolve the query and rectify the inaccurate account. The queries or complaints in respect of account may be dealt with as follows:
- e) A customer may lodge a query or complaint in respect of any accuracy of an amount due and payable in respect of a specific municipal service as reflected on the account rendered.
- f) A query or complaint must be lodged with the municipality or its authorised agent before the due date for payment of the account

39.2.1 A query or complaint must be accompanied by the payment of the average of the last three month's accounts where history of the account is available or an estimated amount provided by the municipality before payment due date until the matter is resolved.

39.2.2 The municipality or its authorized agent will register the query or complaint and provide the customer with a reference number.

39.2.3 The municipality or its authorized agent: -

- (a) shall investigate or cause the query or complaint to be investigated and



(b) must inform the customer, in writing, of its finding within fourteen (14) days after the query or complaint was registered.

39.2.4 Failure to make such agreed interim payment or payments will render the customer liable for disconnection.

39.3. To inform the consumer that if they are dissatisfied with the manner in which their query was handled to follow a stipulated procedure of appeal to the Chief Financial Officer who shall promptly attend to the complaint. The consumer may appeal against finding of a municipality in respect of queries or complaints as follows:

39.3.1. A customer may appeal in writing against a finding of the municipality or its authorized agent in terms of Section 62 of the Municipal System Act.

39.3.2 An appeal and request in terms of subsection (1) must be made in writing and lodged with the municipality within 21 days after the customer became aware of the finding referred to in section 39.2.3 b above and must:

(a) set out the reason for the appeal; and

(b) be accompanied by any security determined for the testing of a measuring device, if applicable.

39.4 To ensure that the Manager Income receives daily reports on such queues and monitors the response time and the efficiency in dealing with the query.

39.5 To take reasonable steps to inform customers of the costs involved in the service, the changes to tariffs and policies, reasons for payment of the service fees and how their payments are utilized to provide the service.

39.6 To provide regular and accurate accounts to the customer with details reflecting the basis for the calculation of the amount due in order to ensure that the customer pays the account with satisfaction that the account is correct.

39.10 To provide:

39.10.1 An electronic facility for the payment of accounts to the municipality's bank account.

39.10.2 Adequate and accessible pay points within the jurisdiction of the municipality for the payment of accounts and the purchase of pre-paid electricity.

39.10.3 Council will endeavor, within the constraints of affordability, to notify arrear debtors on the state of their arrears and to encourage them to pay. They will be informed on their rights (if any) to conclude arrangements or to apply for indigent subsidies should they comply with the conditions, and other related matters.

39.10.4 Such notification is not a right to debtors with arrears but a courtesy from the Council to improve payment levels and relations. Disconnection / restriction of services and other collection proceedings will continue in the absence of such notices and contact with debtors for whatever reason.



## **UNAUTHORISED AND ILLEGAL SERVICES**

### **40. UNAUTHORISED SERVICES**

40.1. No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality or its authorised agent for the rendering of those services.

40.2. The municipality or its authorised agent may, irrespective of any other action it may take against such person in terms of these bylaws, by written notice, order a person who is using unauthorized services to: -

- (a) Apply for such services in terms of Chapter 2 Part 1 of the Bylaws;
- (b) Pay the demand based component and tampering fees as prescribed in the tariff of charges.
- (c) Undertake such work, as may be necessary to ensure that the unauthorized customer installation complies with provisions of these or any other relevant bylaws.

40.3. Any agreement, entered into before the date of coming into effect of these bylaws, and which is in full force and effect, shall be deemed to have been entered into in terms of these bylaws and shall remain in force and effect until cancelled.

### **41. INTERFERENCE WITH INFRASTRUCTURE FOR THE PROVISION OF MUNICIPAL SERVICES**

41.1. No person other than the municipality or its authorised agent shall manage, operate or maintain infrastructure through which municipal services are provided.

41.2. No person other than the municipality or its authorised agent shall effect a connection to infrastructure through which municipal services provided.

### **42. OBSTRUCTION OF ACCESS TO INFRASTRUCTURE FOR THE PROVISION OF MUNICIPAL SERVICES**

42.1. No person shall prevent or restrict physical access to an infrastructure through which municipal services are provided.

42.2. If a person contravenes subsection (1), the municipality or its authorised agent may: -

- (a) By written notice require such person to restore access at his/her own expense within a specified period, or
- (b) If it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.



#### 43. ILLEGAL RE-CONNECTION

43.1. A person who illegally reconnects to a service, interferes with the infrastructure through which municipal services are provided, after such customers access to municipal services have been disconnected, such customers supply of electricity shall be immediately removed.

43.2. A person who re-connects to municipal services in the circumstances referred to in subsection 42.1 shall be liable for the cost associated with any consumption, notwithstanding any other actions which may be taken against such a person.

43.3 In the event that there is an electricity connection where the demand based component was not paid or in the absence of formal payment arrangement, the tampering fee shall be applicable.

43.4 The owner of the property remains liable and responsible in all instances of unauthorized reconnections and disconnections, illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Further, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

44. IMMEDIATE DISCONNECTION

44.1. Immediate disconnection will be effected for failure to give information or provide of false information.

44.2. The provision of municipal services may immediately be disconnected if any person fails to provide information or provide false information reasonably requested by the municipality or its authorised agent

#### 45. READING OF CREDIT METERS

45.1 Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly. The Municipality shall not be obliged to effect any adjustments to such charges.

45.2 If for any reasons the credit meter cannot be read, the Municipality may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical actually consumed.

45.3 When a consumer vacates a property and a final reading of the meter is not possible, estimation may be made and the final account rendered accordingly.

45.4 If special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.

45.5 If any calculating reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of 36 months preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period.



46 **DECEASED ESTATES**

- 46.1 The Executor of a deceased estate, in his capacity as such, shall be liable for payments of all debts on the property.
- 46.2 The occupier or occupiers of a property which vests in a deceased estate where neither an executor nor representative has been appointed, will be required to sign the rates and services agreement for the property. Where there is more than one occupier on the property, every occupier will be jointly and severally liable for an account or consolidated account as per the services agreement.
- 46.3 Deemed ownership does not confer any rights to the occupants other than the liability to pay the accounts.
- 46.4 Failure to inform the Municipality that the property forms part of a deceased estate may result in the disconnection of services, until an executor has been appointed.
- 46.5. Where a deceased estate is insolvent (liabilities exceed all assets) and a property is sold by the executor pursuant to section 34 of the Administration of Deceased Estates Act, 1965 (Act 66 of 1965), the Municipality enjoys preference as a creditor for the application of section 118 (1) of the MSA. Accordingly, no revenue clearance certificate will be issued until all amounts assessed for the prescribed 2-year period, have been paid. The balance of the debt will be dealt with as guided by the law on the administration of deceased estates.

47 **INCENTIVE SCHEME**

- 47.1 The Municipality may institute Incentive schemes to encourage prompt payment.

48. **REFUNDS**

- 48.1 Refunds shall only be Issued, provided that all the customers' accounts are paid in full, credits on accounts shall be refunded, on application, as follows:
- a) To the account holder, for rates and services account;
  - b) To the owner, where the owner pays the tenants account;
  - c) To the conveyancer to pay the buyer or seller, on transfer of a property, this includes any credits that may arise from an objection appeal outcome or an over payment of the account.

49 **SUBMISSION OF BUILDING PLANS**

Submission of building plans shall only be accepted if the following conditions are adhered to and the owner shall ensure:

- a) All applications for submission of building plans are made and processed at the Town Planning department of KwaDukuza Municipality.
- b) The applicant shall obtain from the Enquiries Clerk at the Finance department the full balance of any amount due, owing and payable in respect of any municipal account



- c) The applicant shall pay the outstanding municipal account in full.
- d) Once payment have been made in full, the Enquiries Clerk at Finance Department shall issue a certificate to the customer reflecting that the outstanding municipal accounts have been paid in full.
- e) The certificate issued by the Finance department, must be accompanied with the building plan, when submitting to Town Planning department
- f) Failure to produce the certificate will result in the submission of building plans being rejected

## 50. IRRECOVERABLE DEBT

50.1

Debt will only be considered as irrecoverable if it complies with the following criteria and the write off thereof has been approved by Council:

- a. All reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount; or
- c. The cost to recover the debt does not warrant further action; or
- d. The amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
- e. When the liquidator advised in writing that there is a danger of a contribution; or
- f. The liquidator advised in writing that there is no dividend that will accrue to creditors; or
- g. A deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
- h. Where the estate has not been reported to the Master and there are no moveable assets of value to attach; or
- i. It has been proven that the debt has prescribed; or
- j. The debtor is untraceable or cannot be identified so as to proceed with further action; or
- k. The debtor has emigrated leaving no assets of value to cost effectively recover Council's claim; or
- l. A court has ruled that the claim is not recoverable; or
- m. Arrears owed by previous Administrations, amongst themselves, that now form part of KwaDukuza municipality; or
- n. Old dormant account balances of debtors, inherited from the previous municipalities which now form part of KwaDukuza municipality, and where reasonable steps have been taken to recover these debts; or
- o. All debtors who are registered as indigent as more fully set out in Council's Indigent Policy will have all arrears written off; or
- p. All arrears may be written off to bad debts where Council expropriates any property; or



51 **COMPLIANCE AND ENFORCEMENT**

a) Violation of or non-compliance with this policy will give a just cause of disciplinary steps to being taken.

a) It will be the responsibility of Accounting Officer to enforce compliance with this policy.

52 **EFFECTIVE DATE**

The policy shall come to effect upon approval by Council.

53 **POLICY ADOPTION**

This policy has been considered and approved by the **COUNCIL OF KWADUKUZA LOCAL MUNICIPALITY** as follows:

Resolution No: \_\_\_\_\_

Approval Date \_\_\_\_\_



# **PROPOSED AMENDMENTS TO CREDIT CONTROL AND DEBT COLLECTION POLICY 2019/2020 FINANCIAL YEAR**

## **EXISTING CLAUSE**

### **9.2.1 Property Owners**

- a) Owners are requested to pay a consumption deposit as per the tariff of charges as approved by Council.
- three months projected consumption value; which can be reduced to one consumption value should the owner commit to direct debit payments at the time of application; or

### **9.2.2 Tenants**

Commercial tenants who wish to register for electricity consumption will be required to pay a deposit based on minimum three months consumption value at the time of application or as per the tariff of charges as approved by Council and will not be able to reduce this amount by committing to direct debit payments. They may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either the required payment or a guarantee is provided.

### **9.2.3. Increase in Deposits**

The value of the original deposit paid or a guarantee held will be reviewed, on a regular basis, the customer shall be notified in writing of the revised deposit.

- 9.3(a) The deposit held shall be utilized to settle the arrear account after final account has been rendered.
- 9.3 (b) Where the account is in arrears for more than 60 days, the deposit shall be increased by three months' average consumption.
- 9.3 (c) Where the customer poses a credit risk
- 9.3 (d) Where payment by negotiable instrument or direct debit is dishonoured for more than two times.
- 9.3(e) Where there is an increased in consumption of electricity.

## **PROPOSED CLAUSE**

### **9.2.1 Property Owners**

- a) Owners are requested to pay a consumption deposit as per the tariff of charges as approved by Council.

### **9.2.2 Tenants**

Commercial tenants who wish to register for electricity consumption will be required to pay a deposit as per the tariff of charges as approved by Council and will not be able to reduce this amount by committing



to direct debit payments. They may provide a guarantee from a Bank in lieu of a cash deposit but no application will be processed until either the required payment or a guarantee is provided.

### **9.2.3. Increase in Deposits**

The value of the original deposit paid or a guarantee held will be reviewed, on a regular basis, if an irregular and unacceptable payment plan is identified, the customer shall be notified in writing of the revised deposit.

9.3(a) The deposit held shall be utilized to settle the arrear account after final account has been rendered.

9.3 (b) Where the account is in arrears for more than 60 days, the deposit shall be increased by three months' average consumption.

9.3 (c) Where the customer poses a credit risk

9.3 (d) Where payment by negotiable instrument or direct debit is dishonoured for more than two times.

9.3(e) Where there is an application for an upgrade to electricity supply.

## **EXISTING CLAUSE**

### **11. PAYMENT OPTIONS**

11.1 The Municipality must endeavour to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site.

11.2 Customers must ensure that payments made through third party agents (post-office; easy pay; etc.) are made at least 3 working days prior to the due date. The Municipality will not accept responsibility for delays in receipt of payments.

11.3 The methods of payment shall be pronounced by the Council from time to time.

## **PROPOSED CLAUSE**

11.1 The Municipality must endeavor to establish a payment network to ensure that, wherever practically possible, customers in receipt of accounts have access to a payment site.

11.2 Customers must ensure that payments made through third party agents are made at least 3 working days prior to the due date. The Municipality will not accept responsibility for delays in receipt of payments.

11.3 The following payment methods are also available:

- (i) Cash
- (ii) EFT
- (iii) Internet Transfers;
- (iv) Third party collectors appointed from time to time by the Municipality;
- (v) Direct Debit (ACB)
- (vi) Credit card or debit card
- (vii) Debit Order payments

11.4 The following shall apply for all payments from debtors:

- (i) Proof of payment from debtors shall be required if payment is not yet receipted on the debtor account.
- (ii) Proof of payment from the customers will be verified, where applicable, for authenticity.



11.5 Where a Customer signs an application for services with the Municipality, payment shall, as far as possible be accepted via a direct debit procedure.

**EXISTING CLAUSE**

14. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE

Additions

**PROPOSED CLAUSE**

14. RESPONSIBILITY FOR AMOUNTS DUE AND PAYABLE

14.10 Where the company has been deregistered and there are amounts due to the municipality, the municipality or its authorised agent shall apply to the Companies and Intellectual Property Commission to re-register a deregistered company or close corporation or apply to court for an order of restoration or the voiding of the deregistration for the purposes of recovering the amounts owed by that company or close corporation for all municipal debts which have accrued and shall recover the costs of re-registration from the directors or members accordingly.

**EXISTING CLAUSE**

25. ILLEGAL ELECTRICITY CONNECTION

Additions

**PROPOSED CLAUSE**

25. ILLEGAL ELECTRICITY CONNECTION

1) The owner of the property remains liable and responsible in all instances of unauthorized reconNECTIONS and disconnections, illegal connections, tampering, damage or theft of municipal infrastructure, and services installed in the property. Further, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

**EXISTING CLAUSE**

33. PREPAID ELECTRICITY METER

Applications for prepaid electricity meter shall only be accepted from the Owner of the property. The owner shall ensure:

(d) Once payment has been made, the enquiries clerk at finance department shall issue a certificate to the customer reflecting that the outstanding municipal electricity accounts have been paid.  
(e) The consumer shall only be able to purchase the prepaid electricity meter from the municipality after the certificate has been handed to the electrical department.  
(f) Councils preferred metering system for domestic and certain business consumers are on the prepayment metering system.

**PROPOSED CLAUSE**

APPLICATION FOR CONNECTION OF PREPAID AND CONVENTIONAL ELECTRICITY METER

Applications for connection of prepaid and conventional electricity meter shall only be accepted from the Owner of the property. The owner shall ensure



- d) Once payment has been made, the enquiries clerk at finance department shall issue a certificate to the customer reflecting that the outstanding municipal rates and services accounts have been paid.
- e) The consumer shall only be able to proceed with the prepaid or conventional electricity meter application with the municipality after the certificate has been handed to the electrical department.

Request deletion of clause F, After the discussion at Energy Loss Task Team, it was established that most tampering emanates from prepaid meters.

**EXISTING CLAUSE**

**34. TAMPERING AND/OR THEFT OF SERVICES ON PREPAID AND CONVENTIONAL ELECTRICITY METER**

None

**PROPOSED CLAUSE**

**34. TAMPERING AND/OR THEFT OF SERVICES ON PREPAID AND CONVENTIONAL ELECTRICITY METER**

- 34.13 The owner of the property remains liable and responsible in all instances of unauthorized reconnections and disconnections, illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Further, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

**EXISTING CLAUSE**

Additions

**36 LEGAL ACTION**

**PROPOSED CLAUSE**

**36.2 AUTHORITY TO RECOVER ADDITIONAL COSTS AND FEES**

The municipality or its authorised agent has the authority to, in consultation with the Municipality's authorized officials, notwithstanding the provisions of any other sections contained in the Credit Control and Debt Collection bylaws, to recover any additional costs incurred in respect of implementing the Credit Control and Debt Collection bylaws against the account of the customer, including but not limited to:

- 36.2.1 All legal costs based on the prescribed fees as set out in the Schedule of the Magistrate Court Act (32 of 1944) and the Rules of the Supreme Court are the maximum fees that COUNCIL will pay an attorney/authorized agent for his/her services. The Municipality's authorised agent will not demand rates exceeding the prescribed rates.
- 36.2.2 In the event of legal services being rendered which falls outside the scope of tariff, the Municipality's authorised agent dealing with the matter shall negotiate a reasonable fee with the Municipality.
- 36.2.3 All collections due and payable by the debtor shall be paid directly into the Municipal Account as directed by the Municipal authorized agent/ attorney and no Municipal agent/ attorney is authorized to collect any monies on behalf of the Municipality.



**EXISTING CLAUSE**

**43. ILLEGAL RE-CONNECTION**

43.3 In the event that the demand based component was not paid, the tampering fee shall be applicable.  
43.4 Additions

**PROPOSED CLAUSE**

**43. ILLEGAL RE-CONNECTION**

43.3 In the event that there is an electricity connection where the demand based component was not paid or in the absence of formal payment arrangement, the tampering fee shall be applicable.  
43.4 The owner of the property remains liable and responsible in all instances of unauthorized reconnections and disconnections, illegal connection, tampering, damage or theft of municipal infrastructure, and services installed in the property. Further, the onus is upon the owner to ensure that tenants on the premises or the property refrain from such acts. Nothing precludes the Municipality from recovering charges from a previous owner where tampering is proven by the Municipality, or in a court of law, to have predated a current owner's title to the property, or where the application of the laws allows from both the previous and current owner, jointly or severally, the one paying the other to be absolved (given that the debt attaches by law to the property).

**EXISTING CLAUSE**

**46 DECEASED ESTATES**

46.1 The Executor of a deceased estate, in his capacity as such, shall be liable for payments of all debts on the property.  
46.2 Where the property was previously governed by Black Administrations Act, and the estate not yet been finalized, the occupants of the property shall be regarded as "Deemed Owners for the purposes of the account only, and shall be responsible for payment of consolidated accounts (including rates).  
46.3 Deemed ownership does not confer any rights to the occupants other than the liability to pay the accounts.  
46.4 Failure to inform the Municipality that the property forms part of a deceased estate may result in the disconnection of services, until an executor has been appointed.

**PROPOSED CLAUSE**  
**46 DECEASED ESTATES**

46.2 The occupier or occupiers of a property which vests in a deceased estate where neither an executor nor representative has been appointed, will be required to sign the rates and services agreement for the property. Where there is more than one occupier on the property, every occupier will be jointly and severally liable for an account or consolidated account as per the services agreement.

46.5 Where a deceased estate is insolvent (liabilities exceed all assets) and a property is sold by the executor pursuant to section 34 of the Administration of Deceased Estates Act, 1965 (Act 66 of 1965), the Municipality enjoys preference as a creditor for the application of section 118 (1) of the MSA. Accordingly, no revenue clearance certificate will be issued until all amounts assessed for the prescribed 2-year period, have been paid. The balance of the debt will be dealt with as guided by the law on the administration of deceased estates.



**EXISTING CLAUSE**

50

**IRRECOVERABLE DEBT**

None

**PROPOSED CLAUSE**

**50. IRRECOVERABLE DEBT**

50.1 Debt will only be considered as irrecoverable if it complies with the following criteria and the write off thereof has been approved by Council:

- a. All reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount; or
- b. The cost to recover the debt does not warrant further action; or
- c. The amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
- d. When the liquidator advised in writing that there is a danger of a contribution; or
- e. The liquidator advised in writing that there is no dividend that will accrue to creditors; or
- f. A deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
- g. Where the estate has not been reported to the Master and there are no moveable assets of value to attach; or
- h. It has been proven that the debt has prescribed; or
- i. The debtor is untraceable or cannot be identified so as to proceed with further action; or
- j. The debtor has emigrated leaving no assets of value to cost effectively recover Council's claim; or
- k. A court has ruled that the claim is not recoverable; or
- l. Arrears owed by previous Administrations, amongst themselves, that now form part of KwaDukuza municipality; or
- m. Old dormant account balances of debtors, inherited from the previous municipalities which now form part of KwaDukuza municipality, and where reasonable steps have been taken to recover these debts; or
- n. All debtors who are registered as indigent as more fully set out in Council's Indigent Policy will have all arrears written off; or
- o. All arrears may be written off to bad debts where Council expropriates any property.



**EXISTING CLAUSE**

**16. INTEREST / ADMINISTRATION CHARGES ON OUTSTANDING ACCOUNTS**

16.3 Charge all costs incurred in the debt collection including any collection commission (if applicable) once the debt has been handed over for collection.

**PROPOSED CLAUSE**

16.3 Charge all legal costs incurred for debt collection commission (if applicable) once the debt has been handed over for collection.

**EXISTING CLAUSE**

**35. PROPERTY RATES AND CONSOLIDATED BILLING**

35.4 The Municipality may make application to court for judgment, costs and the summary sale of the property in appropriate circumstances. Legal costs and collection commission shall be debited to the relevant debtors accounts. In the event of the Municipality through its internal collection procedure recovering the debt from the customer, the customer shall be liable for any disbursements and collection commission.

**PROPOSED CLAUSE**

35.4 The Municipality may make application to court for judgment, costs and the summary sale of the property in appropriate circumstances. Legal costs and collection commission if applicable shall be debited to the relevant debtors accounts. In the event of the Municipality through its internal collection procedure recovering the debt from the customer, the customer shall be liable for any disbursements and any other charges as reflected in the tariff of charges, and collection commission if applicable.





**2019/2020**  
**DRAFT INDIGENT POLICY**



# KWADUKUZA MUNICIPALITY INDIGENT POLICY

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## **KWADUKUZA MUNICIPALITY INDIGENT POLICY**

### **1. DEFINITIONS**

<b>"Income"</b>	it is the amount of money or its equivalent received during a period of time in exchange for labor and or services rendered, from the sale of goods or property, or as profit from financial investments or any earned or unearned income which is taxable in terms of SARS provision.
<b>"Civil Pension"</b>	Is regarded as income that is taxable in terms of SARS provision.
<b>"Social Pension"</b>	(Old Age grant): Is a monthly income provided by South African Social Security Agency to older people (age 60 and above).
<b>"Child Support Grant"</b>	It is the money paid to the primary care giver, who must be 16 years or older and be a South African citizen or permanent resident of a child to provide for the child's basic needs.
<b>"Indigent households"</b>	are households that are registered with the municipality as such and meet the criteria of the indigent policy and occupying/ owning a property within the jurisdiction of the municipality.
<b>"Household"</b>	means a traditional family unit consisting of a combination of persons.
<b>"Child headed household"</b>	A household headed by a person under the age of 21 years but with all other requirements for an indigent household as stated in this policy."
<b>"Indigent"</b>	means a person/ household who is lacking financial affordability to pay for necessities of life such as sufficient refuse removal, basic electricity, health care, housing, food and clothing.
<b>"the Municipality"</b>	for the purpose of this policy it means the KwaDukuza Local Municipality.



## 2. OBJECTIVE

2.1 In terms of Section 74 of the Local Government Municipal Systems Act no. 32 of 2000, a Municipal Council must adopt and implement a Tariff Policy. In terms of section 74(i) of the Act in adopting a Tariff Policy, the Council should at least take into consideration the extent of subsidization of tariffs for poor households. Arising from the above, Council needs to improve an Indigent Support Policy. This policy must provide procedures and guidelines for the subsidization of basic service and tariff charges to its indigent households.

2.2 The Council accepts that they are responsible for the rendering of service in terms of schedules 4 and 5 of the Constitution as well as other services which may be delegated by National and Provincial Government. The Council will Endeavour to render a basic level of service necessary to ensure an acceptable and reasonable quality of life and which takes into account health and environmental considerations. None of the residents should fall below the minimum level of services.

## 3. PURPOSE OF THE INDIGENT POLICY

3.1 The purpose of the indigent policy is to ensure:

- a) The provision of basic services to the community in a sustainable manner, within the financial and administrative capacity of the Council;
- b) To provide procedures and guidelines for the subsidization of basic service charges to its indigent households, using the Council's budgetary provisions received from Central Government, augmented from time to time by Council's own revenues, according to prescribed policy guidelines,

3.2 The Council also recognizes that many residents can simply not afford the cost of full provision and for this reason the Council will endeavor to ensure affordability through:

- a) Setting tariffs in terms of the Councils Tariff Policy, which will balance the economic viability of continued service delivery; and
- b) Determining appropriate service levels

## 4. CRITERIA FOR QUALIFICATION

In order to qualify for indigent support the following criteria must be met:

4.1. Households where verified total gross of monthly income of all occupants over 18 years of age shall not exceed the threshold as determined by Council from time to time.

4.2 Child headed households are automatically considered indigent unless proven otherwise.



## **KWADUKUZA MUNICIPALITY – DRAFT INDIGENT POLICY 2019/2020**

4.3 Subsidized services may include burial and cremation fees and verge maintenance for indigent areas, refuse removal, and electricity.

4.4 Only households where the accountholder or property owner has applied for an indigent status, and whose application has been accepted shall qualify for the above relevant concessions.

4.5 For a household to qualify for subsidies or rebates on the major service charges, the following will apply:-

- (a) The indigent must be a registered residential consumer of services rendered by council.
- (b) Household/ occupants/ residents/ dependents who do not own more than one property.
- (c) May be equipped with a pre-paid meter, the conversion shall be done free of charge or alternatively council shall adopt a special tariff for conventional meters.
- (d) Only property owners who live in the premises shall qualify for subsidies and/ or rebates.

4.6 Households must formally apply for relief on the prescribed documentation and satisfy the qualifying criteria/principles determined by the Council.

4.7 The status of an indigent is conferred for a period of not more than twelve months after which re-application must be made.

4.8 The onus is on the indigents to declare their indigent status annually also the onus is on the recipient to inform the Municipality of any change in his/her financial status or personal household circumstances

## **5. EXTENT OF INDIGENT SUPPORT**

5.1 The subsidies on specified services will be determined as part of the annual budget and in terms of the municipality's policies and tariffs.

5.2 The funding of the indigent subsidy shall be sourced from the equitable share contribution as provided for in the budget. As such, the subsidy can only be credited to the qualifying customer's accounts until the budget allocation is exhausted. Whereupon no further credits will be granted until further national funds are received. Notwithstanding the above, if there is a budget surplus, the Council shall set aside funds from own revenue sources for the purposes of augmenting any shortfall in funding received from the National fiscus. Due to timing differences in receiving the National funding, the Council will bridge fund the payment of the indigent support until the Council receives its allocation from the National fiscus, but only to the extent that confirmed funding is granted.



- 5.3 In respect of electricity: a 100% subsidy based on the number of kWh per household per month as determined by Council will apply.
- 5.4 In respect of refuse: All registered indigent consumers will receive a 100% refuse rebate per month. The tariff applicable will be the tariff for indigent customers as per the tariff of charges as approved by Council annually.
- 5.5 If a customer's consumption or use of municipal services is less than the subsidized services, the unused portion may not be accrued by the customer and will not entitle the customer to cash or to a rebate in respect of the unused portion.
- 5.6 Rates and (or) service charges on the indigent's account will automatically be levied monthly.
- 5.7 Any indigent person who owns a government subsidized house, residential improved property shall be exempt from paying rates and refuse on a minimum valuation threshold as determined by Council. Where the property valuation is in excess of the minimum valuation threshold as determined by Council, and the indigent household meets the qualifying criteria by application, then the refuse exemption will apply. Council will supply free refuse collection in these areas through the use of skips.
- 5.8 Any indigent person who owns unimproved property valued at the amount as determined by Council from time to time will be exempted from paying rates and availability charges.
- 5.9 The subsidy for services, on the indigent's account, will automatically be credited, from the equitable share, monthly.
- 5.10 If a situation occurs where it is reported that consumers are minor children (Child headed families) due to unforeseen circumstances then additional support will be determined as per Council's decision from time to time.
- 5.11 In respect of indigent burials and cremations: The tariff applicable will be the tariff for indigent customers as per the tariff of charges as approved by Council annually. Customers who do not appear on the approved annual indigent register will pay the normal applicable burial and cremation tariff.
- 6. ARREARS ON INDIGENT ACCOUNTS**
- 6.1 Customers who qualify for equitable share subsidy and who are in arrears, may be placed on the pre-paid metering system at council discretion.
- 6.2 Where 6.1 is applicable, a notice will display upon the first purchase of power to visit council's Finance department to make suitable arrangements regarding the arrears.
- 6.3 The non-payment and arrangement as referred to in clause 6.2 above will be as determined in terms of Council's Credit Control and Debt collection policy.



## **7. NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT**

- 7.1 When a property owner or accountholder who has registered as an indigent fail to comply with any arrangements or conditions materially relevant to the receipt of indigent relief, such person will forfeit his or her status as a registered indigent with immediate effect, and will thereafter be treated as an ordinary residential property owner or accountholder for the financial year concerned.
- 7.2 The onus is on each registered indigent to advise the municipal manager, or his nominee, of such failure to comply.
- 7.3 The relief to indigents may be withdrawn at the discretion of the municipal manager, or his nominee, if:
- a) A registered indigent who qualifies for such relief fails to keep to the terms of the policy agreement; or
  - b) Any tampering with the installations of the municipality services is detected.
- 7.4 The indigent status of a customer will be reviewed from time to time at intervals as determined by Council. This could be done by either physical audit or external verification checks including amongst others, ITC Credit Bureau, Department of Labour or any other sources of verification. Should the requirements not be met, the subsidy for that consumer will be terminated with immediate effect.
- 7.5 If a registered indigent person of a household is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent or failed to inform the municipality of any improvement in the financial status of the household leading to the gross income exceeding the indigent threshold as determined by Council, such person shall:
- (a) immediately be removed from the register of indigents, and
  - (b) Shall be liable to repay the municipality with immediate effect for all indigent relief received from the date of such fraudulent registration.
  - (c) Such person shall not again be considered for indigent relief for a period extending for five years beyond the financial year in which the misdemeanor is detected.
- 7.6 Indigent relief will not apply in respect of property owners owning more than one property, whether in or outside the municipal area.

## **8. TERMINATION OF INDIGENT SUPPORT**

- 8.1 Indigent support will be terminated under the following circumstances:
- a) Death of the account holder. In the event the approved applicant passes away, the heirs of the property must re-apply for indigent support provided that the stipulated criteria is met.
  - b) End of the 12 month cycle.



- c) Upon change of ownership of the property in respect of which support is granted.
- d) When circumstances in the indigent household have improved in terms of gross income threshold as prescribed by Council.
- e) When the indigent accountholder disposes off the property, either by sale or by means of donation.

#### 9. KWADUKUZA MUNICIPALITY EMPLOYEES ON THE INDIGENT REGISTER

- 9.1 No KDM employee shall appear on the indigent register or benefit from the indigent programme unless,

- a) The employee's gross income is below the indigent threshold as determined by Council or
- b) The employee lives in one of the Council designated areas and is only receiving the refuse benefit.

#### 10. REPORTING REQUIREMENTS

- 10.1 The municipal manager or his nominee shall report on a quarterly basis to the council for the quarter concerned and by municipal ward:

- a) The number of households registered as indigents and a brief explanation of any movements in such numbers;
- b) The monetary value allocated per service category of the actual subsidies.
- c) The budgeted value allocated per service category

- 10.2 The Finance Directorate or the responsible official shall keep and monitor a complete register of registered indigent household;

- a) The number of registered child headed families
- b) Performance of all areas against targets as set out in the municipality's performance management system

#### 11. POLICY REVIEW

This policy has been considered and reviewed by the Council of Kwadukuza Municipality and supersedes all other indigent policies that were previously adopted by Council.

Resolution No:  
Date of review:





## **PROPOSED AMENDMENTS TO INDIGENT POLICY 2019/2020- ANNEXURE A**

### **5. EXTENT OF INDIGENT SUPPORT**

#### **Clause 5.11 – PROPOSED NEW**

<i>Current</i>	None
<i>Proposed</i>	In respect of indigent burials and cremations: The tariff applicable will be the tariff for indigent customers as per the tariff of charges as approved by Council annually. Customers who do not appear on the approved annual indigent register will pay the normal applicable burial and cremation tariff.
<i>Reason for Proposed</i>	To include indigent burials and cremations in the "extent of indigent support" in order to provide clarity as to who would qualify for this subsidized service. Circular 1 of 2019 issued by COGTA, states that "although pauper burials forms part of indigent support, it is not a free basic service; a necessity of life."



**DRAFT TARIFF POLICY**  
**2019/2020**





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1. Definitions

In this policy:

**“Indigent”**  
means a person/ household who is lacking financial affordability to pay for necessities of life such as sufficient refuse removal, basic electricity, health care, housing, food and clothing;

**“Municipal area”**  
means the area in respect of which the municipality has executive and legislative authority as determined by the constitution and the National legislation and the area as demarcated by the Demarcation Act (Act 27 1998);

**“Municipal council”**  
means a municipal council referred to in section 157 of the Constitution and for this by-law includes a municipal local council and a municipal district council, as the case maybe;

**“MSA”**  
means the Municipal Systems Act 2000, (Act 32 of 2000);

**“MFMA”**  
means the Municipal Finance Management Act (MFMA) 56 of 2003;

**“Poor households”**  
means those households in the municipal area that cannot afford to pay either the entire tariff charge for the municipal services, or part of it;  
Also means those households in the municipal area living in property with a municipal property valuation under a certain amount as determined by Council and earn less than an amount as determined by Council per month.

**“tariff policy”**  
means a policy on the levying of fees, rates or taxes for the municipal services provided by the municipality itself and that complies with the Municipal Systems Act 2000 (Act 32 of 2000).



## **2. INTRODUCTION**

- 2.1 In terms of Section 62 (1) of the Municipal Finance Management Act (MFMA) the Accounting Officer of a Municipality is responsible for managing the financial administration of the municipality and, in terms of S62 (1) (f), must for this purpose take all reasonable steps to ensure – "that the Municipality has and implements a tariff policy referred to in Section 74 of the Municipal Systems Act" (MSA).

In giving effect to S74 (1) of the Municipal Systems Act, the Municipality adopts the following as the framework Tariff Policy within which the Municipal Council must adopt various policies.

- 2.2 One of the primary functions of a local authority is to provide services to the people resident within its municipal area. The funding of these services is made possible by levying property taxes, charging for municipal services rendered.

Tariffs represent the charges levied by Council on consumers for the utilization of services provided by the Municipality. These are calculated dependent on the nature of service being provided. They may be set in a manner so as to recover the full cost of the service being provided or recover part of the costs or bring about a surplus that can be utilized to subsidise other non-economical services.

## **3. OBJECTIVE**

- a) The objective of this Policy is to ensure that:
- i) The tariffs of the Municipality comply with the legislation prevailing at the time of implementation.
  - ii) The Municipal services are financially sustainable, affordable and equitable.
  - iii) The needs of the indigent, aged and disabled are taken into consideration.
  - iv) There is consistency in how the tariffs are applied throughout the Municipality and;
  - v) The Policy is drawn in line with the principles as outlined in the MSA (see 5 below)

## **4. PRINCIPLES**

- 4.1 In terms of S74 (2) of the Municipal Systems Act of the following principles should at least be taken into account when formulating a Tariff Policy,

- a) The users of municipal services should be treated equitably in the application of tariffs.



- b) As far as practically possible, consumers should pay in proportion to the amount of services consumed.
- c) All households, with the exception of the poor (indigent), should pay the full costs of services consumed. Poor households must have access to at least a minimum level of basic services through:
  - i) Tariffs that cover the operating and maintenance costs,
  - ii) Special lifeline tariffs for low levels of use or consumption of services or for basic levels of service, or
  - iii) Any other direct or indirect method of subsidization of tariff for poor households.
- d) Tariff must include the cost reasonably associated with rendering the service, including capital, operating, maintenance, administration, replacement and interest charges.
- e) Tariffs must be set at a level to facilitate financial sustainability of the service, taking into account subsidization from sources other than the service concerned. Sustainability can only be achieved when: -
  - i) Cash inflows cover cash outflows. This means that sufficient provision for working capital and bad debts must be made.
  - ii) Access to the capital market is maintained. This can be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits on trading services.
- f) Provision may be made in appropriate circumstance for a surcharge on the tariff for a service.
- g) Provision may be made for the promotion of local economic development through a special tariff for categories of the commercial and industrial users.
- h) The economical, efficient and effective use of resources, the recycling of wastes and other appropriate environmental objectives must be encouraged.
- i) The extent of subsidization of the poor households and other categories of users should be fully disclosed. This will be achieved by publishing the true costs of



the service and the level of subsidy as well as the source of the subsidy.

- j) In terms of S74 (3) of the MSA a tariff policy may differentiate between different categories of users, debtors, service providers, services and geographical areas as long as the differentiation does not amount to unfair discrimination. In order to give full effect to this section, Section 75 (1) of the MSA provides for the Municipal Council to adopt bylaws.

## **5. CATEGORIES OF CUSTOMERS**

The tariff structure of KwaDukuza Municipality may make provision for the following categories of customer:

- i) domestic;
- ii) commercial;
- iii) industrial;
- iv) agricultural;
- v) rural;
- vi) municipal services;
- vii) public sector;
- viii) special agreements

## **6. CLASSIFICATION AND PRICING STRATEGIES OF SERVICES**

There are basically three categories of municipal services (i.e. trading, rate and general and housing services) which are discussed as follows: -

### **6.1 Trading Services**

These services are defined as services whereby the consumption of the service is measurable and can be accurately apportioned to an individual consumer. These services are hence managed like businesses. The tariffs for these services are budgeted for in such a way that at least a breakeven situation for the municipality will be realized. Examples of these services include electricity. The Council's pricing strategy for these services is to recover the full cost of rendering the service to the communities. For this purpose full costs includes:-



- i) Direct operating costs e.g. Salaries, allowances including overtime, materials used, repairs and maintenance, general expenses and plant and vehicle hire.
- ii) Depreciation / capital charges based on usage, life of buildings, plant and equipment and infrastructure used.
- iii) Financing outlays which includes loan service costs.
- iv) Allocated costs that include costs allocated through support services.

## 6.2 Rates and General Services

This service is further classified into 3 categories i.e. economic, subsidized and community services.

### 6.2.1 Economic Service

These are services for which tariffs are fixed in such a way that the full cost of providing the service is recovered without incurring a surplus or deficit e.g. trade effluent includes commercial and industrial refuse removal. The consumption of an economic service can be measured or determined with reasonable accuracy and apportioned to an individual consumer. Whilst they are also managed like businesses, the tariffs for these services are normally determined in such a way that user charges cover the cost of providing the service. These costs can be determined as follows:

- i) Full cost of providing the services as explained in 7.1 above.
- ii) The rate per unit is based on projected usage.

### 6.2.2 Subsidized Services

These are services for which tariffs are fixed in such a way that at least a portion of the cost of providing the service can be recovered. The consumption of these services can be determined reasonably accurately and can be apportioned to individuals and consumers. However, if the tariffs for using this service were based on its real cost, nobody would be able to afford it. In most cases not only would the consumer benefit from using the service, but also other persons. Therefore, user charge is payable for using the service, but the tariff is much lower than the real cost of providing the service. These services include fire fighting, approval of building plans and the construction of buildings, leasing of municipal facilities, selling of burial sites and certain town planning functions.



### **6.2.3 Community Services**

6.2.3.1 Community services are those services for which the Council is unable to accurately determine the consumption and hence apportion to individual consumers. These services are typically financed through property rates.

6.2.3.2 These services include the operation and maintenance of parks and recreation facilities, provision and maintenance of roads and storm water drainage systems, the establishment, management and maintenance of cemeteries and traffic regulation.

6.2.3.3 In addition to the above services domestic refuse removal is also a community service provided directly to all the residents and for which costs form part of a balanced budget. The Municipality also provides support services such as committee services, records and archives, financial management accounting and stores, occupational health and human resources management, which are financed through property rates.

### **6.3 Housing and Community Residential Units (CRU's)**

These are usually grouped into three categories, namely, letting schemes, selling schemes and community residential units (Hostels). All income and expenditure transactions in respect of such schemes fall into this category and the objective of the service is to be economic i.e. the operating income should cover the operating expenditure. In addition, these functions are being carried out on an agency basis as these are not deemed as Local Government functions.

## **7. TARIFF TYPES**

In determining the type of tariff applicable to the type of service the Council shall make use of the following four options or a combination of the same.

8.1 **Single tariff.** This tariff shall consist of a fixed cost per unit consumed. All costs will therefore be recovered through a unit charges at the level of breakeven consumption.

8.2 **Cost related two-to-four part tariff:** This tariff shall consist of two-to-four parts. Management, capital, maintenance and operating costs will be recovered by grouping certain components together e.g. management, capital and maintenance costs may be grouped together and be recovered by a fixed charge, independent of consumption for all



classes of consumers, while the variable costs may be recovered by a unit charge per unit consumed.

8.3 **Inclining block tariff:** This tariff is based on consumption levels being categorized into blocks, the tariff being determined and increased as consumption levels increase.

8.4 **Declining block tariff:** This tariff is the opposite of the inclining block tariff and decreases as consumption levels increase.

## 8. UNIT OF MEASUREMENT

The following units of measurement will, where possible, be used to determine tariffs:

### 8.1 Electricity

- a) Maximum demand plus fixed costs plus kWh consumed.
- b) Fixed costs plus kWh consumed.
- c) kWh consumed. (kWh – kilowatt hour)
- d) kVA. (kVA – kilovolt-ampere)

### 8.2 Refuse removal

8.2.1 The categories of refuse removal users as set out below shall be charged at the applicable tariffs, as approved by the council in each annual budget.

8.2.2 Tariff adjustments shall be effective from 1 July each year.

8.2.3 A separate fixed monthly refuse removal charge shall apply to each of the following categories of users, based on the costs of the service concerned:

- a) Domestic and other users (once weekly removal)
- b) Business and other users (twice weekly removal)
- c) Business and other users (thrice weekly removal)
- d) Business and other (bulk consumers).

8.2.4 Registered indigents may receive such discount on this charge as the council deems affordable when approving each annual budget.

8.2.5 A fixed monthly charge shall be charged to the local municipality's departments equal to the lowest (domestic) tariff.



- a) Plastic bags per week (volume).
- b) Containers per week (volume).

## **9. POLICY PROPOSAL**

### **9.1 A minimum amount of basic services must be free**

**9.1.1** The Municipality subscribes to the policy that all poor households are entitled to a minimum amount of free basic services. A basic service is a service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health or safety of the environment. These services include:

- a) Domestic refuse removal
- b) Electricity and Municipal health service.

**9.1.2** The Council is aware that it currently does not provide these services to all residents within its municipal area. It is also aware that, more than likely, some of the services it currently provides in conjunction with the above mentioned services may be transferred or assigned to other bodies. In the latter case, the Council commits itself to make representations and negotiate with those service providers to achieve its goal.

**9.1.3** The Council realizes that in order to achieve its goal, a minimum amount of basic services should be free to the poor, whilst tariffs for services above the minimum level of consumption will have to be increased. These increases are necessary to make good any shortfall resulting from free services and to ensure a balanced budget on the trading account.

### **9.2 Keeping Tariffs Affordable**

**9.2.1** The Council is keenly aware of the financial situation of most residents within the municipal area. Therefore, the Council undertakes to keep tariffs at affordable levels. In order to remain affordable the Council will ensure that:

- a) Services are delivered at an appropriate level,



- b) Efficiency improvements are actively pursued across the Municipalities' operations,
- c) A performance management system is introduced to ensure that plans that are devised are actually implemented, that resources are obtained as economically as possible, used efficiently and effectively and that appropriate service delivery mechanisms are used,
- d) Any non-core functions that it currently performs are phased out as soon as possible without depriving the community of any services that really contributes to the quality of life of people in our area, and;
- e) Any service that is provided for which there is little demand, be priced at the actual cost of providing it. If this requires the Municipality to maintain significant infrastructure and other facilities, they should be phased out, except where the Council is by law required to provide such a service.

### 9.3

#### Introducing the "Consumer must pay principle"

Having regard for the abovementioned Council's Policy on minimum amount of free basic services for all, the Council believes that consumers of services must pay for the amount of services that they use. Where it is possible to measure the consumption services, the Council intends to install metering systems, and to take into account the free service element. In this regard the Council will develop a program to install meters in appropriate cases. Also it is the Council's policy that the tariffs for such services must include all relevant cost factors.

### 9.4

#### Redistribution / Cross Subsidization

It is a fact that some members of the community are better able to afford to pay for the services that they use and have the benefit of than others. The budget of the Municipality is an important device in ensuring redistribution within the community. Those that pay higher property rates based on the value of their properties, in fact subsidize those who pay less tax. The Council uses the trading surplus it realizes on the trading account to bring relief with regard to property tax rates. Likewise the Council will ensure that the cross-subsidization occurs between and within services to further contribute to its redistribution objectives.



**9.5 Promoting Local and Economic Competitiveness and Development**

The size of the property rates and service charges accounts presented to the local businesses, is a significant business overhead for any business enterprise in the Municipal area. The overhead of a business is one of the factors that influence the price of goods and services sold by it, and therefore its profitability and chances of survival. The Council will take care that the municipal accounts presented to local businesses are fair. To ensure fairness toward local business, the Council will, when it determines tariffs, take into account the desire:

- a) To promote local economic competitiveness and
- b) To promote local economic development and growth.

**9.6 Ensuring Financial Sustainability of Service Delivery**

The Constitution, Local Government Municipal Systems Act, 2000 require that the Municipality must ensure that the services that it provides must be sustainable. Financial sustainability of the Municipality will be achieved when it is financed in a manner that ensures that it exhibits, at least, a break-even position. The tariff for a service must therefore be sufficient to cover the cost of the initial capital expenditure required and interest thereon, managing and operating the service and maintaining, repairing and replacing the physical assets used in its provision. However, sustainability does not only mean that the price of the service must include all the relevant cost elements, it also means that charges to be levied must be collected. The Council will therefore adopt and apply a Credit Control and Debt Collection policy to ensure that property rates and service charges are fully recovered.

**9.7 Indigents**

The indigent assistance scheme will apply to tariffs set by the Council. This is laid out in the Indigent Policy. With regards to customer service agreements, deposits and guarantees, accounts and billing, and all other items pertaining the credit control and debt collection, related to tariffs, reference must be made to the Credit Control and Debt Collection Policy.

**10. TARIFF DETERMINATION PROCESS**

- 10.1 Except in special circumstances, such as significant increases in the wholesale price of goods and services, the Council purchases during a year to provide services, the Council will review its tariffs during the preparation of the annual budget in accordance with the



policy stated above. Proposed tariffs will be presented to the community during Councils consultation process about the budget.

- 10.2 In terms of Section 75 (A) of the MSA amendment Act 51/2002, a municipality may operate such;
- a) That it can levy and recover fees, charges or tariffs in respect of any function or service of the Municipality,
  - b) That fees and charges levied are passed by the municipal Council with a supporting vote of a majority of its members.

- 10.3 The annual tariffs per service should be compared to the activity based costing results, to view the profitability per service and level of cross subsidization. The goal should be to, where possible, provide a cost-reflective service charge.

- 10.4 Immediately after the Council has determined or amended a tariff, the Municipal Manager must cause to be conspicuously displayed at a place installed for this purpose at all the offices of the Municipality as well as at such other places within the Municipal area as she / he may determine a notice. The notice must state:

- a) The general purpose of the resolution,
- b) The date on which the determination or amendment comes into operation, which date may not be earlier than 30 days after the determination or amendment,
- c) The date on which the notice is displayed,
- d) That any person who desires to object to such determination or amendment must do so in writing within 14 days after the date on which the notice was displayed, and
- e) That any person who cannot write may come during office hours to a place where a staff member of the Municipality named in the notice, will assist that person to transcribe her / his objection.
- f) If no objection is lodged within the period stated in the notice the determination or amendment will come into operation on the date determined by the Council.
- g) Where an objection is lodged, the Municipality will consider every objection.

- 10.5 The Council may, after it has considered all objections, confirm, amend, or withdraw the determination or amendment or may determine another tariff, on the date on which the determination or amendment will come into operation.



- 10.6 After the Council has considered the objections it will again give notice of the determination, amendment or date as determined above and will also publish it as determined by the Council.

**11. MINOR TARIFFS**

- 11.1 All minor tariffs shall be approved by the council in each annual budget, and shall, when deemed appropriate by the Council, be subsidized by property rates and general revenues, particularly when the tariffs will prove uneconomical when charged to cover the cost of the service concerned, or when the cost cannot accurately be determined, or when the tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- 11.2 The following services shall be considered as subsidized services, and the tariffs levied shall cover 50% or as near as possible to 50% of the annual operating expenses budgeted for the service concerned:
- a) Burials and cemeteries
  - b) Rentals for the use of Municipal facilities
- 11.3 The following services shall be considered as community services, and no tariffs shall be levied for their use:
- a) Municipal swimming pool
  - b) Municipal museum and art gallery
  - c) disposal of garden refuse at the Municipal tip site
  - d) Municipal reference library
  - e) Municipal lending library (except for fines set out below)
  - f) Municipal botanical garden, and all other parks and open spaces.
- 11.4 The following services shall be considered as economic services, and the tariffs levied shall cover 100% or as near as possible to 100% of the budgeted annual operating expenses of the service concerned:
- a) Maintenance of graves and garden of remembrance (cremations)



- b) Rentals for the use of Municipal halls and other premises
- c) Building plan fees
- d) Development Applications (Town Planning) Fees,
- e) Photostat copies and fees
- f) Clearance certificates.

11.5 The following charges and tariffs shall be considered as regulatory or punitive, and shall be determined as appropriate in each annual budget:

- a) fines for lost or overdue library books
- b) advertising sign fees
- c) pound fees
- d) penalty and other charges imposed in terms of the approved policy on credit control and debt collection
- e) Penalty charges for the submission of dishonored, stale, post-dated or otherwise unacceptable cheques.

11.6 Market-related rentals shall be levied for the lease of Municipal properties.

11.7 In the case of rentals for the use of Municipal halls and premises, if the Municipal Manager is satisfied that the halls or premises are required for non-profit making purposes and for the provision of a service to the community, the Municipal Manager may waive 50% of the applicable rental.

11.8 The Municipal Manager shall determine whether an indemnity or guarantee must in each instance be lodged for the rental of Municipal halls, premises and sports fields and in so determining shall be guided by the likelihood of the Municipality's sustaining damages as a result of the use of the facilities concerned.

## 12. BY-LAWS

The principle contained in this Policy shall be reflected in the various service by-laws as promulgated and adjusted by Council from time to time.

## 13. CONCLUSION

The Policy will be placed on the website of the Municipality in terms of Section 75 (1) (b) of the MFMA, and the Municipality shall comply with the provisions of section 21 A of the MSA. This Policy will be reviewed annually by the Council.



**14. POLICY REVIEW**

This Policy has been considered and reviewed by the **COUNCIL OF KWADUKUZA MUNICIPALITY** as follows:

Resolution No:.....

Date of reviewed:.....



ANNEXURE 1: LEGAL REQUIREMENTS

SECTION 1: LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT NO. 32 OF 2000

SECTION 73: GENERAL DUTY

The municipality must give effect to the provisions of the Constitution, and in doing so give priority to the basic needs of the local community, promote the development of the local community, and ensure that all members of the local community have access to at least the minimum level of basic municipal services.

The services provided by the municipality must be: equitable and accessible; provided in a manner conducive to the prudent, economic, efficient and effective use of available resources, and the improvement of standards of quality over time; financially sustainable; environmentally sustainable; and regularly reviewed with a view to upgrading, extension and improvement.

SECTION 74: TARIFF POLICY

The council of a municipality must adopt and implement a tariff policy on the levying of fees for the services provided by the municipality itself or by way of service delivery agreements.

Such policy must comply with the provisions of the present Act and any other applicable legislation.

Such tariff policy must reflect at least the following principles:

- i. that users of municipal services must be treated equitably in the application of the municipality's tariffs;
- ii. that the amount individual users pay for services must generally be in proportion to the use of such services;
- iii. that poor households must have access to at least basic services through tariffs which cover only operating and maintenance costs, special tariffs or lifeline tariffs for low levels of use or consumption of services or for basic levels of services, or any other direct or indirect method of subsidization of tariffs for poor households;
- iv. that tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;



## KWADUKUZA MUNICIPALITY – DRAFT TARIFF POLICY 2019/2020

- v. that tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidization from sources other than the service concerned;
- vi. that provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
- vii. that provision may be made for the promotion of local economic development through special tariffs for categories of commercial and Industrial users;
- viii. that the economic, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged;
- ix. that the extent of subsidization of tariffs for poor households and other categories of users must be fully disclosed.

The tariff policy may differentiate in respect of services, service standards, service providers and other matters between different categories of users, debtors or geographical areas.

If the policy entails such differentiation, the municipality must ensure that this does not amount to unfair discrimination.

### SECTION 75: BY-LAWS TO GIVE EFFECT TO POLICY

The council of the municipality must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.

Such by-laws may differentiate in respect of services, service standards, service providers and other matters between different categories of users, debtors or geographical areas, but in a manner which does not amount to unfair discrimination



# **Cash Management, Banking and Investment Policy**



**KWADUKUZA MUNICIPALITY**  
"The Municipality"



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**ANNEXURE I**



## 1. DEFINITIONS

In this Policy, unless the context indicates otherwise, a word or expression, to which a meaning has been assigned in the Municipal Finance Management Act (MFMA) No. 56 of 2003, has the same meaning.

**"Accounting Officer"** refers to the Municipal Manager of KwaDukuza Municipality

**"Auditor-General"** means the person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person as acting as Auditor-General, designated by the Auditor-General to exercise a power or perform a duty of the Auditor-General.

**"Act"**- The Local Government Municipal Finance Management Act, 2003 (Act 56 of 2003)

**Chief Financial Officer or his delegate** means an officer of the Municipality, designated by the Municipal Manager to be administratively in charge of the financial affairs of the Municipality;

**"Creditor"** in relation to a municipality, means a person to whom money is owing by the municipality.

**"Debt"** means a monetary liability or obligation created by a financing agreement, bond or overdraft, or by the issuance of municipal debt instruments; or a contingent liability such as that created by guaranteeing a monetary liability.

**"Debt Agreement"** includes any loan agreement under which a municipality undertakes to repay a long-term debt over a period of time

**"Financial year"** means a year ending on 30 June.

**"Investee"** means an institution with which an investment is placed or its agent.

**"Investment"** in relation to funds of a municipality, means

- the placing on deposit of funds of a municipality with a financial institution,
- the acquisition of assets with funds of a municipality not immediately

required, with the primary aim of preserving those funds.



**"Lender"** in relation to a municipality, means a person who provides debt finance to a municipality.

**"Long-term debt"** means debt repayable over a period exceeding one year.

**"Long-term Investments"** means any cash or liquid securities owned by the Municipality which have a maturity date, and/or callable date reasonably expected to be exercised, that is greater than one year.

**"Month"** means one of the 12 months of a calendar year.

**"Council"** means the Municipal Council of KwaDukuza Municipality

**"Municipal entity"** has the meaning assigned to it in section 1 of the Municipal Systems Act.

**"Municipality"** means KwaDukuza Municipality.

**"Municipal Systems Act"** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

**"Primary bank account"** means the main bank account referred to in section 8(1) of the MFMA.

**"Provincial treasury"** means KwaZulu-Natal Provincial Treasury (KZNPT)

**"Short-term debt"** means debt repayable over a period not exceeding one year.

**"Short-term Investments"** Any cash or liquid securities owned by the municipality which is having a maturity date, and/or Callable date reasonably expected to be exercised, that is equal to or less than one year.



## 2. INTRODUCTION

2.1

This Policy is aimed at gaining the optimal return on investments, without incurring undue risks, during those periods when cash revenues are not needed for capital or operational purposes. The effectiveness of this Policy is dependent on the accuracy of the Municipality's cash management programme, which must identify the amounts surplus to the Municipality's needs, as well as the time when and period for which such revenues are surplus.

2.2

Managing the cash resources of the Municipality is a key requirement to ensure the liquidity of the Municipality in order to meet its financial obligations. In order to achieve this objective the KwaDukuza Municipality has adopted this Policy.

3.

## STATUTORY FRAMEWORK

Section 13 (2) of the Local Government: Municipal Finance Management Act 2003 (Act No 56 of 2003) requires that the Municipality must establish an appropriate and effective cash management and investment policy in accordance with a framework that may be prescribed by the Minister of Finance..

4.

## SCOPE OF POLICY

This Policy applies to all cash investments made by KwaDukuza Municipality, and the Municipality shall at all times manage its cash management and investments in compliance with this Policy and must not be inconsistent with the Municipal Finance Management Act and the Municipal Investment Regulations.

5.

## THE PURPOSE AND OBJECTIVES OF THE POLICY

The purpose of this Policy is to ensure that investment of surplus funds forms part of the financial system of the Municipality and to ensure that prudent investment procedures are consistently applied.

- i) To manage cash flows in an efficient and prudent manner
- ii) To maintain a level of liquidity sufficient to meet both planned and unforeseen cash requirements
- iii) To invest only in approved financial institutes
- iv) To minimize the risk of investments
- v) To maximize returns on investments without incurring undue risks
- vi) To ensure all relevant information is disclosed to Council
- vii) To ensure that all investment decisions are made by the appropriate delegated authority



- viii) To prohibit investment of funds for speculative purposes
- ix) To ensure transparency and compliance in all investment processes

## **6. RESPONSIBILITIES OF THE ACCOUNTING OFFICER**

- 6.1 According to the Municipal Finance Management Act 2004, chapter 8, paragraph 60 and 61, the Accounting Officer of a municipality is the Accounting Officer of the Municipality for the purposes of this Act, and, as Accounting Officer, must –
- (a) Exercise the functions and powers assigned to an Accounting Officer in terms of this Act; and
  - (b) Provide guidance and advice on compliance with this Act to –
    - (i) The political structures, political office-bearers and officials of the Municipality; and
    - (ii) Any municipal entity under the sole or shared control of the Municipality.
- 6.2 The Accounting Officer of a municipality must in terms of Municipal Finance Management Act:
- (a) Exercise utmost care to ensure reasonable protection of the assets and records of the entity;
  - (b) Act with fidelity, honesty, integrity and in the best interest of the entity in managing the financial affairs of the entity;
  - (c) disclose to the entity's parent municipality and the entity's board of directors, all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the parent municipality or the board of directors; and
  - (d) Seek, within the sphere of influence of that Accounting Officer, to prevent any prejudice to the financial interests of the parent municipality or the municipal entity.
- 6.3 The Accounting Officer may not –
- (a) Act in a way that is inconsistent with the responsibilities assigned to Accounting Officers of municipal entities in terms of this Act; or
  - (b) Use the position or privileges of, or confidential information obtained as Accounting Officer, for personal gain or to improperly benefit another person.
- 6.4 The Accounting Officer is therefore accountable for all transactions entered into by his designates. One of the main functions of Accounting Officer is that of adequate and effective cash management.



6.5 The Chief Financial Officer is responsible for establishing systems, procedures, processes and training and awareness programmes to ensure efficient and effective banking and cash management.

6.6 Sound cash management includes the following:

- a) Collecting revenue when it is due and banking it promptly;
- b) Making payments, including transfers to other levels of government and non-government entities, no earlier than necessary, with due regard for efficient, effective and economical programme delivery and the government's normal terms for account payments;
- c) Avoiding pre-payments for goods or services (i.e. payments in advance of the receipt of goods or services), unless required by the contractual arrangements with the supplier;
- d) Accepting discounts to effect early payment only when the payment has been included in the monthly cash flow estimates provided to the relevant treasury;
- e) Pursuing debtors with appropriate sensitivity and rigor to ensure that amounts receivable by the Municipality are collected and banked promptly;
- f) Accurately forecasting the institution's cash flow requirements;
- g) Timing the inflow and outflow of cash;
- h) Recognizing the time value of money, i.e. economically, efficiently, and effectively managing cash; and
- i) Taking any other action that avoids locking up money unnecessarily and inefficiently, such as managing inventories to the minimum level necessary for efficient and effective programme delivery, and selling surplus or obsolete assets in terms of the Asset Management Policy.

6.7 The overall responsibility of investments lies on the Accounting Officer. However the day to day handling of investments is the responsibility of the Chief Financial Officer or his designate.

6.8 In the instance that the Chief Financial Officer authorizes the investment, two authorized signatories must authorize and affect the electronic funds transfer in respect of the investment amount.

6.9 Where payments to financial institutions in respect of investments are to be effected by cheques, the following procedures apply:

- a) The Accountant must complete a cheque requisition form and submit it to the Chief Financial Officer together with the supporting quotations;



- b) The Chief Financial Officer must either authorize the requisition or submit it to Council for authorization depending on the value of the investment;
- c) When the Council or the Chief Financial Officer has authorized the requisition, the Chief Financial Officer or two authorized signatories are required to sign the cheque and submit it to the financial Institution.

## **7. CASH MANAGEMENT PROCEDURES**

### **7.1 Bank Arrangements**

- 7.1.1 The Accounting Officer is responsible for the management of the bank account. All withdrawals from the primary or other municipal banks account must be authorised by the Accounting Officer.
- 7.1.2 Written and signed delegations clearly indicating power and/or duties delegated should be in place. This is in terms of section 79 of the MFMA.
- 7.1.3 The Accounting Officer is responsible for opening the primary bank account with authorized banking institutions.
- 7.1.4 The Chief Financial Officer must prepare the bank reconciliation within 7 days after the end of each month, investigate any irregularities and report them to the accounting officer. The bank statements are analyzed on a daily basis. The monthly bank reconciliation prepared must reflect agreeing balances between the balances as per bank statement to that arrived at by the Municipality in its cash book.

### **7.2 Revenue Collection**

- 7.2.1 The Accounting Officer or delegated official must ensure that all revenue is properly accounted for.
- 7.2.2 The collection and control of arrear revenue and accounts must be managed in accordance with policies issued and implemented in terms of section 64(2) of the MFMA and section 95 of the Municipal Systems Act.
- 7.2.3 Adequate provision must be made for writing off irrecoverable revenue in terms of the Credit Control & Debt Collection Policy.

### **7.3 Debtor Collections**

- 7.3.1 All monies due to the Municipality must be collected by the due dates and banked daily.



7.3.2 All monies collected must be deposited daily or on the next working day into the primary bank account of the Municipality.

7.3.3 A numbered official receipt reflecting the name of the Municipality must be issued for the receiving of all monies.

7.3.4 The debt collection process must be reviewed regularly to determine the efficiency and effectiveness thereof.

7.3.5 Any debt older than the period determined by the credit control policy must be handed over to the applicable section for recovery.

#### **7.4 Payment to Creditors**

7.4.1 All payments should be settled on or before the due date, that is, within 30 days of the receipt of the invoice, unless otherwise agreed to between the supplier and the municipality.

7.4.2 However, the Municipality will strive to settle the amounts payable to suppliers within the settlement period as advised on the invoice to take advantage of any settlement discounts.

7.4.3 Due regard must be taken of terms of credit offered.

7.4.4 All payments by Municipality, where possible, should be effected electronically.

7.4.5 Payments may not be split to circumvent the tender regulation and any such non-compliance constitutes financial misconduct.

#### **7.5 Receipt of Money**

7.5.1 All payments received over the counter by the Municipal cashier must be acknowledged by the issuing of a numbered official receipt.

7.5.2 An endorsed cancelled receipt must be attached to the day end cash reconciliation form.

7.5.3 A cancelled receipt must be retained for audit purposes.

7.5.4 Any money, including cheques and postal orders received via mail must be recorded in a designated register that must reflect all necessary details to enable later use and identification of such receipts.

7.5.5 The register, including all payments received, must be submitted to the cashier for receipting.



7.5.6 All receipts will be recorded in the designated register, and any documents relative to the payments will be filed for audit purposes.

## **7.6 Management of Cash Flow**

7.6.1 The Chief Financial Officer must prepare an annual estimate of the cash flow per calendar month, this is in terms of section 71 of the MFMA.

7.6.2 The Chief Financial Officer must, every month, update estimated cash flow with the actual cash flow.

7.6.3 Comments and explanations must be provided for any significant cash flow deviations.

7.6.4 The Accounting Officer must on a monthly basis, submit to the Finance Portfolio Committee and Provincial Treasury, a statement in the prescribed format in terms of section 71 of the MFMA.

7.6.5 The analysis of the cash flow will include:

- (i) When surplus revenue should be invested;
- (ii) When investments should be liquidated; and
- (iii) When long and short-term debt should be incurred.

## **8. INVESTMENT ETHICS**

8.1 The Accounting Officer, or delegated official, shall be responsible for investing the surplus revenues of the Municipality, and shall manage such investments in compliance with this Policy and any other policy directives formulated by Council and any regulations promulgated.

8.2 In making such investments the Chief Financial Officer, shall at all times have only the best interests on the Municipality and shall not accede to any influence or interference from other Council officials, Councillors, investment agents or institutions or any other outside parties.

8.3 Neither the Chief Financial Officer or any other Municipal Official, Executive Member or Councillor, may accept any undue gift or benefit, from any investment agent or institution or any party with which the Municipality has made or may potentially make an investment.



**8.4 Prudence**

Investment shall be made with care, skill, prudence and diligence. The approach must be that which a prudent person acting in a like capacity and familiar with investment matters would use in the investment of funds of like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Municipality.

Investment officials are required to:

- a) Adhere to written procedures and policy guidelines.
- b) Exercise due diligence.
- c) Prepare all reports timeously.
- d) Exercise strict compliance with all legislation.

**8.5 Ownership**

All investments must be made in the name of the KwaDukuza Municipality.

**9. INVESTMENT PRINCIPLES****9.1 Limiting Exposure**

- a) Where large sums of money are available for investment the Accounting Officer shall ensure that they are invested with more than one institution, wherever practicable, in order to limit the risk exposure of the Municipality.

- b) The Accounting Officer shall further ensure that as far as it is practically and legally possible, the Municipality's investments are so distributed that more than one investment category is covered i.e. Call, Money Market and Fixed Deposit. There is a limitation to the extent on investment on the institution selected. Not more than 30% of the Municipality's investments may be made with any one investment entity at a given time. This excludes investments matched to identify projects, working capital or held in the One Day Call Account. Any investments made shall be placed with registered banks.

**9.2 Risk and Return**

The offer of best interest rates on an investment must be considered with the degree of risk involved to both the financial institution and the investment instrument concerned. No investment shall be made with an institution where the degree of risk is perceived to be higher than the average risk associated with investment institutions. Money's invested may not be made for speculation and no funds may be borrowed at any time to be used for investments.



## **10. INVESTMENT PROCEDURE**

- 10.1. After determining whether there is cash available for investment and fixing the maximum term of investment, the Accounting Officer must consider the way in which the investment is to be made.
- 10.2. Short-term Investment
- a) The term of investment shall not be more than 12 months.
  - b) Quotations must be obtained from a minimum of three registered financial institutions, for the term of which the funds will be invested.
  - c) Should one of the institutions offer a better rate for a term, other than the term originally quoted for, the other institutions which were approached, must also be asked to quote a rate for the other term.
  - d) Quotations must be obtained via e-mail communication, as rates generally change on a regular basis and time is a determining factor when investments are made.
  - e) No attempts must be made to make institutions compete with each other.
- 10.3. Long-term investment
- a) Written quotations must be obtained for investments made for periods longer than twelve months.
  - b) The prior approval of the Council must be obtained for all investments made for periods longer than twelve months after considering the cash requirement for the next three years.
- 10.4. Investment maturity
- a) Upon maturity of the investment the Municipality shall do one of the following:
    - i. Shall withdraw the whole amount invested.
    - ii. Shall re-invest 100% interest plus the original amount that had been invested, in terms of the investment procedure, unless if Council wishes to utilize the original money or the interest.
    - iii. Shall invest in part.
- 10.5. Early withdrawal of invested funds
- a) When investing the funds with the banking institutions the Chief Financial Officer shall ensure that such funds are not withdrawn earlier than the maturity date agreed upon,



- by so doing the Municipality will not incur fruitless and wasteful expenditures in form of penalties resulting from early withdrawal of investments.
- b) The Chief Financial Officer shall only withdraw funds if :
- i) the banking institution concerned has agreed to exempt any penalties due to early withdrawal of investment or;
  - ii) the Accounting Officer my grant approval to withdraw the invested funds after he/she has satisfied himself/herself that the urgency was unforeseeable at the time when funds were invested and that the need for funds far outweighs the penalties being paid for such early withdrawal

## 11. CONTROL OVER INVESTMENTS

- 11.1.1 The Chief Financial Officer shall ensure that proper records are kept of all investments made by the Municipality. Such records shall indicate:

- i. The date on which the investment is made
- ii. The institution with which the money's are invested
- iii. The amount of investment
- iv. The interest rate applicable and
- v. The maturity date

- 11.1.2 The Chief Financial Officer shall ensure that all interest and capital properly due to the Municipality are timeously received and shall take appropriate steps if interest or capital is not fully or timeously received.

- 11.2 The Chief Financial Officer shall ensure that all investment documents are adequately safeguarded.

- 11.3 If an Investment Adviser is ever engaged, the Chief Financial Officer shall ensure that such Adviser has the credentials specified for the "Investment Manager" in Regulation 1 of the Act.

## 12 BANKING ARRANGEMENTS

- 12.1 The Accounting Officer is responsible for the management of the Municipality's bank accounts, but may delegate this function to the Chief Financial Officer. The Accounting Officer and Chief Financial Officer are authorised at all times to sign cheques and any other documentation associated with the management of such accounts. The Accounting Officer, in consultation with the Chief Financial Officer, is authorised to appoint two or more additional



signatories in respect of such accounts, and to amend such appointments from time to time. The list of current signatories shall be reported to the Council or the Mayor.

12.2 In compliance with the requirements of good governance, the Accounting Officer shall open a primary bank account for ordinary operating purposes, and shall further maintain a separate accounting records for each of the following: the administration of Government grants & Subsidies, monies received from Department of Human Settlements for the administration of various housing projects.

12.3 The Accounting Officer shall invite tenders in accordance with the necessary SCM Regulations & Policies.

### **13 GENERAL INVESTMENT PRACTICE**

#### **13.1 General**

After determining whether there is cash available for investment and fixing the maximum term of investment, the Chief Financial Officer or his/her Delegate must consider the way in which the investment is to be made. As rates can vary according to money market perceptions with regard to the terms of investment, quotations must be requested via email, within term limitations, and these must be set out on a schedule.

#### **13.2 Commission Certificate**

As part of the year-end and external investment confirmations, financial institutions should confirm that no commission has been paid by the municipality to any agent or third party, or to any person nominated by the agent or third party.

#### **13.3 Reports**

The Council must be given a monthly report on all investments.

#### **13.4 Cash In the Bank**

Where money is kept in current accounts, it would be possible to bargain for more beneficial rates with regards to deposits, for instance call deposits. Fixed term deposits can increase these rates. The most important factor is that the cash in the current account must be kept to an absolute minimum.

#### **13.5 Obtaining Quotations**



- a) Quotations for call deposits greater than 7 days, fixed deposits or any other investment with a financial institution should be requested via e-mail for a period within the limitations of the anticipated term of the investment.
- b) Quotations must be solicited from a minimum of three registered financial institutions referred to, bearing in mind the limits of the term for which it is intended to invest the funds.
- c) All quotations must be recorded on a schedule by the accountant. This schedule, together with the printed e-mails, must thereafter be given to the Chief Financial Officer for review and final consideration.
- d) The person responsible for requesting quotations from institutions should record the name of institution, the name of the person who gave the quotation and the relevant terms and rates and other facts such as whether the interest is payable on a monthly basis or on a maturity date. Written confirmation of the quotation accepted is essential.
- e) Where an investment is made at an institution at a rate lower than that of other quotations, reasons must be recorded by the Accounting Officer/delegated official and reported to Council as part of the quarterly report by the Accounting Officer/delegated official.

#### 14 INTERNAL CONTROL PROCEDURES

- 14.1 An investment register must be kept of all investments made. The following facts must be indicated:

- a) Name of institution;
- b) Capital invested;
- c) Date invested;
- d) Interest rate; and
- e) Maturity date and
- f) Interests earned on investments,
- g) The Reason for investment (Purpose).

- 14.2 The investment register and accounting records must be reconciled on a monthly basis.
- The investment register must be examined on a fortnightly basis by the senior official under the direction of the Chief Financial Officer as instructed, to identify investments falling due within at least two weeks.

- 14.3 Where investments are to be undertaken for a period longer than three (3) months, a cash flow analysis is required.

- 14.4 Interest, correctly calculated, must be received timeously, together with any distributable capital. The Chief Financial Officer or his or her assignee must check that the interest is



calculated correctly, in terms of sound universally accepted financial management practices.

14.5 All investment must be denominated in South African Rand (ZAR)

## **15 AUTHORITY**

The Accounting Officer is responsible for ensuring that this Policy is implemented and enforced. The Accounting Officer may delegate any authority and duty assigned to him within this Policy by delegating it in writing and in conformance with requirements of the MFMA.

## **16 IMPLEMENTATION OF THIS POLICY**

This Policy shall be implemented once approved by Council. Existing investments that do not comply with this Policy should be properly discontinued and all future investments must be made according to this Policy.

## **17 COMPLIANCE AND ENFORCEMENT**

- a. Violation of or non-compliance with this Policy may give a just cause of disciplinary steps to be taken.
- b. It will be the responsibility of Chief Financial Officer to enforce compliance with this Policy.

## **18 EFFECTIVE DATE**

The Policy shall come to effect upon approval by Council of KwaDukuza Municipality.

## **19 POLICY ADOPTION**

This Policy has been considered and approved by the **Council of KwaDukuza Local Municipality** as follows:

Resolution No:.....

Approval Date:.....



## ANNEXURE I

### PARAPHRASE OF REQUIREMENTS OF MUNICIPAL FINANCE MANAGEMENT ACT NO 56

OF 2003

Note: In terms of Section 60(2) of the Municipal Systems Act No. 32 of 2000 the council may delegate the authority to take decisions on making investments on behalf of the municipality only to the Mayor, executive committee or Chief Financial Officer. The foregoing policy is based on the assumption that such authority has been delegated to the Chief Financial Officer.

### SECTION 7: OPENING OF BANK ACCOUNTS

Every municipality must open and maintain at least one bank account. This bank account must be in the name of the municipality, and all monies received by the municipality must be paid into this bank account or accounts, promptly and in accordance with any requirements that may be prescribed.

A municipality may not open a bank account:

- otherwise than in the name of the municipality;
- abroad; or
- with an institution not registered as a bank in terms of the Banks Act 1990.

Money may be withdrawn from the municipality's bank account only in accordance with the requirements of Section 11 of the present Act.

### SECTION 8: PRIMARY BANK ACCOUNT

Every municipality must have a primary bank account, and if the municipality has only one bank account that account is its primary bank account. If the municipality has more than one bank account, it must designate one of those bank accounts as its primary bank account. The following must be paid into the municipality's primary account:

- all allocations to the municipality;
- all income received by the municipality on its investments;
- all income received by the municipality in connection with its interest in any municipal entity;
- all money collected by a municipal entity or other external mechanism on behalf of the municipality; and;
- any other monies as may be prescribed.

The accounting officer of the municipality must submit to the national treasury, the provincial treasury and the Auditor-General, in writing, the name of the bank where the primary bank account of the municipality is held, and the type and number of the account. If the municipality wants to



change its primary bank account, it may do so only after the accounting officer has informed the national treasury and the Auditor-General, in writing, at least 30 days before making such change.

#### **SECTION 9: BANK ACCOUNT DETAILS TO BE SUBMITTED TO PROVINCIAL TREASURIES AND AUDITOR-GENERAL**

The accounting officer of the municipality must submit to the provincial treasury and to the Auditor-General, in writing, within 90 days after the municipality has opened a new bank account, the name of the bank where the account has been opened, and the type and number of the account; and annually, before the start of each financial year, the name of each bank where the municipality holds a bank account, and the type and number of each account.

#### **SECTION 10: CONTROL OF MUNICIPAL BANK ACCOUNTS**

The accounting officer of the municipality must administer the entire municipality's bank accounts, is accountable to the municipal council for the municipality's bank accounts, and must enforce compliance with Sections 7, 8 and 11 of the present Act.

The accounting officer may delegate the duties referred to above only to the municipality's Chief Financial Officer.

#### **SECTION 11: WITHDRAWALS FROM MUNICIPAL BANK ACCOUNTS**

Only the accounting officer or the Chief Financial Officer of the municipality (presumably where this power has been appropriately delegated), or any other senior financial official of the municipality acting on the written authority of the accounting officer, may withdraw money or authorise the withdrawal of money from any of the municipality's bank accounts. Such withdrawals may be made only to:

- a. defray expenditure appropriated in terms of an approved budget;
- b. defray expenditure authorised in terms of Section 26(4) (this Section deals with situations in which the budget was not timeously approved, and the province has been compelled to intervene);
- c. defray unforeseeable and unavoidable expenditure authorised in terms of Section 29(1);
- d. in the case of a bank account opened in terms of Section 12, make payments from the account in accordance with Section 12(4);
- e. pay over to a person or organ of state money received by the municipality on behalf of such person or organ of state, including money collected by the municipality on behalf of such person or organ of state by agreement, or any insurance or other payments received by the municipality for such person or organ of state;
- f. refund money incorrectly paid into a bank account;
- g. refund guarantees, sureties and security deposits;



- h. make investments for cash management purposes in accordance with Section 13;
- i. defray increased expenditure in terms of Section 31; or
- j. for such other purposes as may be prescribed.

(Note that Section 11(1) does not expressly provide for the withdrawal of monies to pay creditors, where the relevant obligations arose in terms of the previous budget; to repay loans; or to repay consumer deposits). Any authorisation to a senior financial official to withdraw money or to authorize the withdrawal of money from a bank account must be in accordance with the framework as may be prescribed. The accounting officer may not authorise any official other than the Chief Financial Officer to withdraw money or to authorise the withdrawal of money from the municipality's primary bank account if the municipality has a primary bank account which is separate from its other bank accounts. The accounting officer must, within 30 days after the end of each quarter, table in the council a consolidated report of all withdrawals made other than withdrawals to defray expenditure appropriated in terms of the approved budget, and submit a

copy of the report to the relevant provincial treasury and the Auditor-General.

## SECTION 12: RELIEF, CHARITABLE, TRUST OR OTHER FUNDS

No political structure or office bearer of the municipality may set up a relief, charitable, trust or other fund of whatever description, except in the name of the municipality. Only the municipal manager may be the accounting officer of any such fund.

A municipality may open a separate bank account in the name of the municipality for the purpose of such relief, charitable, trust or other fund. Money received by the municipality for the purpose of such fund must be paid into the bank account of the municipality, or if a separate bank account has been opened for such fund, into that account.

Money in a separate account opened for such fund may be withdrawn from the account without appropriation in terms of the approved budget, but only by or on the written authority of the accounting officer, acting in accordance with decisions of the council, and for the purposes for which, and subject to any conditions on which, the fund was established or the money in the fund was donated.

## SECTION 13: CASH MANAGEMENT AND INVESTMENTS

The Minister, acting with the concurrence of the cabinet member responsible for local government, may prescribe a framework within which municipalities must conduct their cash management and investments, and invest money not immediately required.



A municipality must establish an appropriate and effective cash management and investment policy in accordance with any framework that may be so prescribed.

A bank where the municipality at the end of the financial year holds a bank account, or held a bank account at any time during such financial year, must, within 30 days after the end of such financial year, notify the Auditor-General, in writing, of such bank account, indicating the type and number of the account, and the opening and closing balances of that account in that financial year. The bank must also promptly disclose any information regarding the account when so requested by the national treasury or the Auditor-General.

A bank, insurance company or other financial institution which the end of the financial year holds, or at any time during the financial year held, an investment for the municipality, must, within 30 days after the end of that financial year, notify the Auditor-General, in writing, of that investment, including the opening and closing balances of that investment in that financial year. Such institution must also promptly disclose any information regarding the investment when so requested by the national treasury or the Auditor-General.

#### **SECTION 17: CONTENTS OF ANNUAL BUDGETS AND SUPPORTING DOCUMENTS**

The following documents must accompany each tabled draft annual budget (inter alia):

- a. a projection of cash flows for the budget year by revenue source, divided into calendar months
- b. particulars of the municipality's investments.

#### **SECTION 22: PUBLICATION OF ANNUAL BUDGETS**

The accounting officer must make public, immediately after a draft annual budget is tabled, the budget itself and all the prescribed supporting documents, and invite comments from the local community in connection with such budget (and documents).

#### **SECTION 36: NATIONAL AND PROVINCIAL ALLOCATIONS TO MUNICIPALITIES**

In order to provide predictability and certainty about the sources and levels of intergovernmental funding for municipalities, the accounting officer of a national or provincial department and the accounting authority of a national or provincial public entity responsible for the transfer of any proposed allocations to a municipality, must by no later than 20 January of each year notify the national treasury or the relevant provincial treasury as may be appropriate, of all proposed allocations and the projected amounts of those allocations to be transferred to each municipality during each of the next 3 financial years.



The Minister or the MEC responsible for finance in the province must, when tabling the national annual budget in the national assembly or the provincial annual budget in the provincial legislature, make public particulars of any allocations due to each municipality in terms of that budget, including the amount to be transferred to the municipality during each of the next 3 financial years.

### SECTION 37: PROMOTION OF CO-OPERATIVE GOVERNMENT BY MUNICIPALITIES

In order to enable municipalities to include allocations from other municipalities in their budgets and to plan effectively for the spending of such allocations, the accounting officer of every municipality responsible for the transfer of any allocation to another municipality, must, by no later than 120 days before the start of its budget year, notify the receiving municipality of the projected amount of any allocation proposed to be transferred to that municipality during each of the next 3 financial years.

### SECTION 45: SHORT-TERM DEBT

The municipality may incur short-term debt only in accordance with and subject to the provisions of the present Act, and only when necessary to bridge shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic income to be received within that financial year, or to bridge capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

The council may approve a short-term debt transaction individually, or may approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that the credit limit must be specified in the resolution of the council; the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and if the council approves a credit facility limited to emergency use, the accounting officer must notify the council in writing as soon as practicable of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as the options available for repaying such debt.

The municipality must pay off short-term debt within the financial year in which it was incurred, and may not renew or refinance short-term debt, whether its own debt or that of any municipal entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

### SECTION 46: LONG-TERM DEBT

A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of the present Act, and only for the purpose of capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in



Section 152 of the Constitution; or refinancing existing long-term debt subject to the requirements of Section 46(5).

#### **SECTION 47: CONDITIONS APPLYING TO BOTH SHORT-TERM AND LONGTERM DEBT**

The municipality may incur debt only if the debt is denominated in rand and is not indexed to, or affected by, fluctuations in the value of the rand against any foreign currency.

#### **SECTION 64: REVENUE MANAGEMENT (EXCERPTS)**

The accounting officer of the municipality is responsible for the management of the revenue of the municipality. The accounting officer, must, among other things, take all reasonable steps to ensure that all money received is promptly deposited in accordance with the requirements of the present Act into the municipality's primary and other bank accounts.

The accounting officer must also ensure that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled on at least a weekly basis.

The accounting officer must take all reasonable steps to ensure that any funds collected by the municipality on behalf of another organ of state are transferred to that organ of state at least on a weekly basis, and that such funds are not used for purposes of the municipality.

#### **SECTION 65: EXPENDITURE MANAGEMENT (EXCERPTS)**

The accounting officer of the municipality is responsible for the management of the expenditure of the municipality.

The accounting officer must take all reasonable steps to ensure, among other things, that payments made by the municipality are made direct to the person to whom they are due, unless agreed otherwise for reasons as may be prescribed, and either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit.

The accounting officer must also ensure that all money owing by the municipality is paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.

The accounting officer must further ensure that the municipality's available working capital is managed effectively and economically in terms of the prescribed cash management and investment framework.



**KWADUKUZA LOCAL MUNICIPALITY**  
"The Municipality"



**BORROWING POLICY**



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## 1. DEFINITIONS

In this policy, unless the context indicates otherwise, a word or expression, to which a meaning has been assigned in the Municipal Finance Management Act (MFMA) No. 56 of 2003, has the same meaning.

**Accounting Officer** means the municipal manager of a municipality for the purposes of this policy in relation to a municipality, and includes a person acting as the accounting officer;

**Act** means the Local government; Municipal Finance Management Act, 2003 ( Act No 56 of 2003);

**Chief Financial Officer or his delegate** means an officer of the Municipality, designated by the Municipal Manager to be administratively in charge of the financial affairs of the Municipality;

**Council** means the Municipal Council as referred to in Section 18 of the Municipal Structures Act;

**Creditor** means in relation to a Municipality, means any person or service provider to whom money is owing by the Municipality;

**Debt** means a monetary liability of obligation created by a financing agreement, note, debenture, bond, overdraft or the issuance of municipal securities;

A contingent liability such as that created by guaranteeing a monetary liability or obligation of another;

**Delegate** means an official/person delegated to perform tasks on behalf of another person;

**Financial Statement** means statements consisting of at least:

- A balance sheet (statement of financial position)
- An income statement (statement of financial performance)
- A cash-flow statement
- Any other statements that may be prescribed
- Any notes to these statements;



**Financial Year** means a year ending 30 June;

**Financing Agreement** means any long-term agreement, lease, installment purchase contract or hire purchase agreement under which the Municipality undertakes to pay the capital cost of property, plant or equipment over a period of time;

**Lender** In relation to a Municipality means a person or service provider who provides debt finance to a Municipality;

**Long Term Debt** means debt, which is repayable over a period exceeding 12 months;

**Municipal Debt Instrument** means any note, bond, debenture or other evidence of indebtedness issued by a Municipality, including virtual or electronic evidence of indebtedness intended to be used in raising debt;

**Security** means a lien, pledge, mortgage, cession or other form of collateral intended to secure the interest of a creditor;

**Short Term Debt** means a debt, which is repayable over a period not exceeding 12 months;

**The Municipality** means KwaDukuza Local Municipality.



## 2. PURPOSE

- a) To establish a borrowing framework policy for the Municipality
- b) To set out the objectives, policies, statutory requirements and guidelines for the borrowing of funds.

## 3. OBJECTIVES

- a) Manage interest rate and credit risk exposure.
- b) Maintain debt within specified limits and ensure adequate provision for the repayment of debt.
- c) To ensure compliance with all Legislation and Council policy governing borrowing of funds.

## 4. SCOPE OF THE POLICY

This policy governs the taking up of new loans, as well as the maintenance and redemption of existing loans. It specifically applies to:

- a) Conditions under which Municipal debt may be incurred.
- b) Compliance with applicable legislations
- c) Long term and short term debts
- d) Security.
- e) Approvals.
- f) Internal Controls.
- g) Reporting and Monitoring Procedures.



## **5. PRINCIPLES FOR BORROWING**

The primary goal in the borrowing of funds is to ensure that the funds are obtained at the lowest possible interest rates at minimum risk, within the parameters of authorised borrowings.

### **a) Risk Management**

The need to manage interest rate risk, credit risk exposure and to maintain debt within specified limits is the foremost objective of the borrowing policy. To attain this objective, diversification is required to ensure that the Chief Financial Officer prudently manages interest rate and credit risk exposure.

### **b) Cost of Borrowings**

The borrowings should be structured to obtain the lowest possible interest rate, on the most advantageous terms and conditions, taking cognisance of borrowing risk constraints, infrastructure needs and the borrowing limits determined by Legislation.

### **c) Prudence**

Borrowings shall be made with care, skill, prudence and diligence. The standard of prudence to be used shall be the "prudent person" standard and shall be applied in the context of managing overall debt.

Officials are required to adhere to:

- (i) written procedures and these guidelines
- (ii) exercise due diligence
- (iii) prepare all reports timeously
- (iv) ensure strict compliance with all Legislation and Council policy

### **d) Ownership**

All loans must be in the name of the Municipality



## 6. CONDITIONS UNDER WHICH MUNICIPAL DEBT MAY BE INCURRED

### 6.1 Statutory Conditions

6.1.1 The Municipality may incur debt, provided that:

- a) The debt is denominated in Rand and is not indexed to, or affected by fluctuations in the value of the Rand to other currencies (Section 47 (a) of the Act).
- b) The debt is approved by resolution of Council, signed by the Executive Mayor, and the Accounting officer has signed the agreement or other document, which creates or acknowledges the debt (Section 46 (2) of the Act).
- c) The Accounting Officer has, at least 21 days prior to the meeting of the Council at which the resolution is to be considered, published a notice in a newspaper of general circulation.

- i) Stating particulars of the draft resolution, including the amount of the loan, the purpose of the loan to be incurred and the particulars of any security to be provided (Section 46(3)(a)(i) of the Act).
- ii) Inviting the public to submit written representations to the Council in respect of the draft resolution (section 46(3)(a)(ii) of the Act).

- d) The Accounting Officer has, prior to the adoption of the resolution, submitted an information statement to the Council setting out the purpose for which the debt is to be incurred, the anticipated total cost of credit over the repayment period, the essential repayment terms and particulars of any securities to be provided (Section 46(3)(b) of the Act).
- e) The relevant resolution was adopted at a meeting of the Council, which was open to the Public.
- f) Where Security is to be provided, the provisions of Section 11 below has been complied with (Section 47(b) of the Act).

### 6.1.2 Long term debt

6.1.3 The Municipality may incur long-term debt for purposes of financing its long-term strategic objectives, as outlined in the Constitution of the Republic of South Africa, Act No 108 of 1996, and Chapter 7 on Local Government, to:

- a) Provide democratic and accountable government for local communities.
- b) Ensure the provision of services to communities in a sustainable manner.
- c) Promote social and economic development.



- d) Promote a safe and healthy environment
- e) Encourage the involvement of communities and community organizations in the matters of local government

#### **6.1.4 Short term debt**

- a) Section 45 of The Municipal Finance Management Act provides that the Municipality may incur short term debt only when necessary to bridge shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long term debt commitments.
- b) The Municipality must pay off short term debt within the same financial year and may not renew or refinance its short term debt.
- c) The Municipality may, in terms of the Municipal Finance Management Act, incur short term debt only if the Chief Financial Officer has made a prior written finding that the debt is either within prudential limits on short term debt as previously approved by the Municipality, or is necessary due to an emergency that could not reasonably have been foreseen and cannot await Council approval.
- d) The Municipality is in the fortunate position that due to its prudent and sound financial position and surplus funds it is not necessary to raise any short term loans.

### **7. LEGISLATIVE FRAMEWORK & DELEGATION OF AUTHORITY**

The relevant Legislation and regulations in terms of which borrowing decisions are governed is Local Government Municipal Finance Management Act, No 56 of 2003.

### **8. TYPES OF LOANS**

#### **7.1 "Vanilla" loans**

"Vanilla" loans are straightforward and uncomplicated. The loan amount, interest rate and repayment period offered by the Financial Institution are fixed. The calculation of the instalment payable on an annuity basis is simple and straightforward. Normally with a "vanilla" loan, the instalment of the loan will be repaid in equal six monthly instalments over the term of the loan. The capital portion of the instalment will increase over the duration of the loan, and



conversely, the interest charged will decrease over the loan period. Where the interest rate offered by the Financial Institution is on a variable basis, an interest rate swap (IRS) must be taken out. An IRS agreement will need to be signed with the party agreeing to accept the variable rate and offer the fixed rate to the Municipality. An IRS agreement must comply with the terms set out by the International Swap Dealers Association (ISDA).

The fixing of debt repayments is an important consideration in meeting the legal requirement of the Municipality, that of annually producing a balanced budget. Debt servicing comprises some 2.87% of the annual operating budget hence the need for certainty of annual debt payments.

## 7.2 Structured Finance Loans

In its simplest form, a structured finance loan is one where the Lender, who is a taxpayer, uses certain tax "claims" and effectively passes a portion of this benefit onto the Municipality by way of a reduced interest rate.

The advantage of this type of financing is that the benefits are utilised, giving the borrower a lower interest rate on the loan. The disadvantage is that any amendments in South African tax laws or the underlying assumptions in the financial model determining the structure of the loan will result in changes in the overall interest rate.

It must be appreciated that before entering into any structured finance contract the Municipality, being a Statutory body, will carefully scrutinise all aspects of the structured finance loan agreement including legal advice both from the Head: Legal and, where necessary, from Senior Legal Counsel to ensure that the Municipality is not participating in a structure which the South African Revenue Service may deem to be one which leads to tax evasion. The Municipality will always adopt a prudent and carefully evaluated approach before entering into structured finance loan agreements.

## 7.3 Bonds

A Bond is an instrument used by Government and Parastatals such as Telkom, Eskom, Transnet, Corporate and Municipalities to raise loan capital on the open market. Bond holders have the right to interest, usually paid on a semi annual basis, and the repayment of the capital amount reflected on the stock certificate held on maturity date. The coupon, maturity, principal value and market value are intrinsic features of a Bond.



The most critical variable factor in determining Bond rates is the expected long term trend in inflation, in order to provide a return that equals inflation plus a risk premium. The higher the risk attached to a borrower, the higher will be the risk premium investors will demand.

During its tenure the Bond will trade on the Bond market at prevailing interest levels. The price of a Bond trading at any given time on the market is a function of prevailing interest rates. Bond prices move inversely to movements in interest rates.

a) *Advantages of a Municipal Bond issue are:*

- (i) A Municipal Bond issue may match the life of the asset being financed. This allows for pay-as-you-use, whereby the ratepayer pays for the use of the asset over the life of the asset.
- (ii) A Municipal Bond issue can take advantage of conditions in the interest rate market. The best example being when short-term rates are higher than long term rates – an inverted yield curve. If all preparations have been taken to enter the market quickly, then a Bond issue with a medium to long term duration could take advantage of short term volatility in the market.
- (iii) If a Municipality establishes a position in the market, it can realize certain benefits. It gives the Issuer a benchmark for further issues. If there are several large maturities that are listed / quoted, it may be possible that a small add-on issue could be put into the market at a lower cost than a new issue.
- (iv) A Municipal Bond issue is an alternative to Bank loans or structured loans. Also, because of the involvement of such parties as Financial Advisors and Underwriters, there should be better understanding and knowledge about interest rates and investor capacity for lending.

b) *Disadvantages of a Municipal Bond issue are:*

- (i) The regulatory requirements which must be complied with prior to an issue will take more time to accomplish than the concluding of a Bank loan.
- (ii) The cost of an issue will be more expensive than a Bank loan.
- (iii) There will be more parties to a Bond issue and therefore organizing and implementing such an issue will require greater administration.



- (iv) Because of the public offer nature of a Bond issue, there will be a greater need for continuing information disclosure, and the accuracy of this information will be important in order not to mislead the investors.
- (v) There will be a number of investors rather than one Lender, payment of interest and principal will need to be made to many Lenders, requiring greater administration.
- The Municipality has not issued any Bonds

## 9. OTHER CONSIDERATIONS

- 8.1 The Municipality has by the judicious use of surplus funds and external long term debt implemented its Integrated Development Plan which has facilitated the much needed service delivery program.

### a) Factors to be considered when borrowing :

- (i) the type and extent of benefits to be obtained from the borrowing
- (ii) the length of time the benefits will be received
- (iii) the beneficiaries of the acquisition or development
- (iv) the impact of interest and redemption payments on both current and forecasted property tax income
- (v) the current and future capacity of the property tax base to pay for borrowings and the rate of growth of the property tax base
- (vi) likely movements in interest rates for variable rate borrowings
- (vii) other current and projected sources of funds
- (viii) competing demands for funds
- (ix) timing of money market interest rate movements and the long term rates on the interest rate curve

- 8.2 The Municipality will, in general, seek to minimise its dependence on borrowings in order to



minimise future revenue committed to debt servicing and redemption charges.

- 8.3 The Municipality may only borrow funds, in terms of the Municipal Finance Management Act, for the purpose of acquiring assets, improving facilities or infrastructure to provide service delivery.
- 8.4 The Municipality's external borrowings have been mainly sourced from the following Institutions :
- a) South African Registered Banks
  - b) Development Bank of Southern Africa Limited
  - c) Infrastructure Finance Corporation Limited

However, unless in terms of special arrangements vetted by Treasury, all procurement of Borrowing shall be in terms of Councils approved Supply Chain Management Policy.

- 8.5 The Municipality may incur long term debt only for the purpose of Capital expenditure on infrastructure, property, plant or equipment to be used for the purpose of achieving the objects of Local Government as set out in section 152 of the Constitution.

## **10. REFINANCING DEBT**

- 9.1 Section 46 of the Municipal Finance Management Act provides that the Municipality may refinance existing long term debt, if such refinancing is in accordance with the prescribed framework. The Municipality may borrow money for the purpose of refinancing existing long term debt, provided the existing long term debt was lawfully incurred and the refinancing will not extend the term of the debt beyond the useful life of the infrastructure, property, plant or equipment for which the money was originally borrowed. Cognisance must be taken of any early repayment penalty clauses in the initial loan agreement, as part of the financial feasibility assessment.
- 9.2 No loans will be prematurely redeemed unless there is a financial benefit to the Municipality.



- 11. DEBT REPAYMENT PERIOD**
- 10.1 Whilst the period for which loan debt may be received will vary from time to time according to the needs of the various lenders, presently the typical debt repayment period for loans is between ten to twenty years, closely matching the underlying asset lives serviced by the loans.
- 10.2 Cognisance is taken of the useful lives of the underlying assets to be financed by the debt, and, moreover, careful consideration is taken of the interest rates on the interest yield curve. Should it be established that it is cost effective to borrow the funds on a shorter duration (as opposed to the life of the asset) as indicated by the interest yield curve, the loan will be negotiated to optimise the most favourable and cost effective benefit to the Municipality.
- 12. SECURITY**
- 11.1 The Municipal Finance Management Act provides that the Municipality may provide security for any of its debt obligations, including the giving of a lien, pledging, mortgaging or ceding an asset, or giving any other form of collateral. It may cede as security any category of revenue or rights of future revenue. Some lenders may require the Municipality to agree to restrictions on debt that the Municipality may incur in future until the secured debt is settled.
- 13. OVERDRAFT**
- 12.1 The Municipality has a bank overdraft facility in terms of Section 45 of Municipal Finance Management Act. This facility may only be accessed with the explicit permission of the Chief Financial Officer.
- 14. DISCLOSURE**
- 14.1 Any official involved in the securing of loans by the Municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor disclose all relevant information that may be requested or that may be material to the decision of the prospective lender or investor. Reasonable care must be taken to ensure the accuracy of any information disclosed. Whilst this is a standard and acceptable business



practice, it is also in compliance with section 49 of the Municipal Finance Management Act.

## **15. GUARANTEES**

- 15.1 Section 51 of the Municipal Finance Management Act provides that the Municipality may not guarantee any debt of any entity unless the entity is a Municipal entity under its sole ownership control. The debt must be reflected in the approved business plan of the entity. The guarantee must be authorised by the Municipality. This must be done in the same manner and subject to the same conditions applicable to any other borrowings.
- 15.2 Neither the National nor Provincial Government may guarantee the debt of any Municipality.

## **16. APPROVAL OF LOANS BY THE MUNICIPALITY**

- 16.1 Section 46 of the Municipal Finance Management Act stipulates that the Municipality may incur long-term debt only if a resolution of the Council, signed by the Mayor, has approved the debt agreement and the Accounting Officer has signed the agreement or other document which acknowledges the debt. At least 21 days prior to the meeting of the Council at which approval for the debt is to be considered, the Municipality must make public an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided. The Public, the National Treasury and Provincial Treasury must be invited to submit written comments or representations to the council in respect of the proposed debt.
- 16.2 A copy of the information statement must be submitted to Council at least 21 days prior to the meeting to discuss the proposed loan, together with particulars of:
- a) the essential repayment terms, including the anticipated debt repayment schedule; and
  - b) the anticipated total cost in connection with such debt over the repayment period.

## **17. PROVISION FOR REDEMPTION OF LOANS**

- 17.1 The Municipality may borrow from Institutions and set up sinking funds to facilitate loan



repayments, especially when the repayment is to be met by a bullet payment on the maturity date of the loan. These sinking funds may also be invested directly with the Lender's Bank. The maturity date and accumulated value of such investment must coincide with the maturity date and amount of the intended loan that is to be repaid. Use can also be made of guaranteed endowment policies to facilitate the payment on maturity date.

## **18. NON-REPAYMENT OR NON-SERVICING OF LOAN**

18.1 The Municipality must honour all its loan obligations timeously. Failure to effect prompt payment will adversely affect the raising of future loans at favorable costs of borrowing.

18.2 Failure to pay any loan instalment even by one day, and even if only through administrative oversight, will have severe repercussions and may jeopardize the Municipality's credit rating.

18.3 In addition to the timeous payment of the loans, the Municipality must adhere to the covenants stipulated in the loan agreements and the undermentioned are some examples of typical covenant requirements:

- furnish audited annual financial statements timeously
- long term credit rating not to decline below A+
- reporting of material changes in financial position of the Municipality
- material changes in the functions, power and duties of the Municipality

## **19. PROHIBITED BORROWING PRACTICES**

19.1 In the past some Municipalities have borrowed funds with the sole purpose of investing them to earn a return. The motive was clearly speculative. The cost of debt is almost always more expensive than the return that the Municipality can derive by investing in permitted investments. Consequently, as a principle, the Municipality does not borrow for investment purposes, but depending on the shape of the interest yield curve may borrow in advance of its capital cash flow needs in a given financial year to take advantage of an inverse interest yield



curve.

- 19.2 Foreign Borrowing is not permitted in terms of section 47 of the Municipal Finance Management Act, whereby the debt is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency.

## **20. INTERNAL CONTROL**

- 20.1 The internal control procedures involve testing by Internal Audit and reporting in terms of Performance Management, and the Auditor-General reviewing and testing the systems of the Finance Department on a regular basis. In order to prevent losses arising from fraud, misrepresentations, error, conflict of interest or imprudent action, a system of internal controls governs the administration and management of the portfolio.

- 20.2 Controls deemed most important include:

- a) Control of collusion, separation of duties.
- b) Custodial safekeeping of loan agreements and contracts.
- c) Clear delegation of duties.
- d) Checking and verification by senior officials of all transactions.
- e) Documentation of transactions and repayments.
- f) Code of ethics and standards.
- g) Procedure manuals.

## **21. NATIONAL TREASURY REPORTING AND MONITORING REQUIREMENTS**

- 21.1 The Municipality submits numerous returns to National Treasury. It is mainly coordinated by the Accounting Division. One such report deals with the Municipality's external interest paid each month. Another return, prepared on a quarterly basis, requires the Municipality to itemise



all its external borrowings for the quarter ended.

## 22. OTHER REPORTING AND MONITORING REQUIREMENTS

- 22.1 Regular reporting mechanisms are in place in order to access the borrowings portfolio and to ensure compliance with policy objectives, guidelines and applicable laws.

### 22.2 Monthly activities include:

- a) Reconciliation of bank accounts

- b) Payment requisition verification and authorisation

- c) Comparison of actual payment to budget

- d) Maintain schedule of payment dates and amounts.

- e) National Treasury Cash Flow return

- f) Analysis of Ratios

- g) Scrutiny of loan agreements to ensure compliance with loan covenants

### 22.3 Quarterly activities:

- a) National Treasury Borrowings return

- b) Restructure Grant Input

### 22.4 Annually:

- a) Preparation of Annual Budget

- b) Preparation of Annual Cash Flow Forecast

- c) Preparation of Annual Approximates/Estimates

- d) Preparation of Annual Financial Statements

- e) Confirmation of Lender balances at financial year end obtaining written certification of loan

balances at year end



- f) Completion of credit rating questionnaire
- g) Regular reviews by Internal Audit, Performance Management & Auditor-General

### **23. POLICY ADOPTION**

This policy has been considered and approved by the **COUNCIL OF KWADUKUZA LOCAL MUNICIPALITY** as follows:

Resolution No:.....

Approval Date:.....



# VIREMENTS POLICY

KWADUKUZA MUNICIPALITY